

GENERAL TERMS AND CONDITIONS

of 42com International Ltd., valid from 01.01.2019

42com International Ltd. (42com)

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§ 1 Functional area of application

- (1) These general terms and conditions of 42com Telecommunication GmbH (hereinafter referred to as "42com") govern the contractual relationship between 42com and the contractual partner for the performance of services.
- (2) The special terms and conditions for particular types of services, which are declared in the annex, are an integral part of these general terms and conditions. The regulations of the special terms and conditions shall have precedence if they differ from the general terms and conditions. The services of 42com are described in the specific performance specifications.
- (3) Agreements which deviate from these contractual conditions have to be made in writing.
- (4) Any general terms and conditions or contractual conditions of the partner will not form part of the contract, even if they are attached to requests for proposals, orders, declarations of acceptance etc., and even if 42com has not rejected these conditions and has supplied its services unconditionally.

§ 2 Conclusion of contract

- (1) A contract is concluded by the partner placing an order (usually by an order form) and the written confirmation of acceptance by 42com. The confirmation of acceptance contains details about the subject matter of the service, the scope of use and the agreed remuneration. Acceptance can also be given implicitly by performing the service. If telecommunication and internet services are used by the partner, these contractual conditions shall also apply even without an explicit order being placed by the partner.
- (2) The employees of 42com are not authorised to make verbal side agreements or give verbal assurances which exceed the content of the written contract.
- (3) The contractual partner declares that it has acknowledged the notice of the possibility to recant the contract.

§ 3 Prices

- (1) The partner is obliged to pay fees for the services provided by 42com and described in the performance specifications. Fees and costs are stated in EUROS (€) and are quoted excluding the

legally applicable VAT, unless the sale is tax-exempt or non-taxable. The conditions for invoicing, billing, payment and price changes are specified in more detail in the general terms and conditions.

- (2) The amount of remuneration (fees) due for the contractual services is specified, provided nothing has been especially agreed in the contract, in the price lists of 42com for the respective services valid at the time of the order.

§ 4 Changes to price lists

- (1) 42com reserves the right to change price lists. The partner shall be notified of changes by e-mail sent to the address specified by the partner in the order, at least one month before the change takes effect. To do so, instead of enclosing the whole price list, it is sufficient to provide a reference to the internet website where the new version can be viewed. If the partner does not reject the changes within one month of them being sent, they are deemed to have been accepted. Upon each change to the price list, 42com shall notify the partner of its right to reject the change and the consequences of failing to reject them. If the changes disadvantage the partner, it can terminate the contractual relationship without notice, within one month of the receipt of the change notification. Price lists in accordance with this provision are all price lists except for the minute price lists, which are calculated on a daily basis. Changes to minute price lists are governed in the corresponding special terms and conditions for the respective service.

§ 5 Invoicing

- (1) Provided nothing else has been agreed, 42com shall invoice the services used by the partner each month. 42com reserves the right to invoice at different invoicing intervals.
- (2) All price components which are invoiced by conversation time (minutes) are combined at the start of each telephone call into a minute price, and a total price for the telephone call is calculated on this basis. They are specified in the invoices as "Fees from calls".
- (3) If the invoice concerns telephone minutes, the partner shall receive access to the invoice data, the itemised statement of the

current invoicing period and the previous invoices via the 42zone web service.

- (4) The itemised statements are deleted after the expiry of the agreed storage period to comply with data protection provisions.
- (5) The partner has to assert objections to the invoiced amount in writing immediately, although at the latest within fourteen days of the receipt of the invoice. The failure to assert an objection on time and with justification is deemed to be equivalent to approval. 42com can, in particular, refer to the objection period and the legal consequences of a failure to issue an objection on time with the request for remuneration. If the partner was prevented from observing the objection period, through no fault of its own, it can submit the objection two weeks after the hindrance has been removed. Legal claims of the partner based on the assertion of justified objections after the expiry of this period remain unaffected.
- (6) The objections of the partner against the invoiced amount are only deemed to be justified, if at least the following details have been included:
 - a) Grounds for the objection
 - b) The uncontested invoiced amount
 - c) Documents and proof to justify the objection.
- (7) If the amount contested in the objection is less than 2 per cent of the total invoiced amount, the ability to make an objection is waived due to the negligibility of the dispute.
- (8) If no call detailed records (CDR) or connection data has been saved for mandatory technical reasons or at the request of the partner, or if saved CDR or connection data has been deleted at the request of the partner due to a legal obligation, 42com has no obligation to provide evidence of individual connections.

§ 6 Billing procedure for services of the partner

- (1) The partner hereby commissions 42com to issue a credit note for services purchased from the partner by 42com. This includes in particular the sale of minutes by the partner to 42com.
- (2) The prerequisite for the issue of a credit note is a) for German partners, a valid tax or VAT ID number, b) for partners from other EU countries a valid VAT ID number or c) for partners from countries outside of the EU, evidence of the company's credentials from the financial authorities in the country of origin. The partner shall provide these details with its order.

The credit amount can, at the discretion of 42com, either be deducted from the invoice from 42com to the partner, or credited as a separate receipt to the credit account of the partner.

§ 7 Payments, consequences of payment default

- (1) The prices of 42com are calculated on a payment in advance basis. Provided nothing else has been agreed, 42com only performs its services after payment in advance.
- (2) The advance payments of the partner are credited to a customer credit account. The telephone minutes, and any other services of 42com used are debited from this customer credit account. The charging of periodical fees is done on the first day of the invoice period at 12.00 am. Additional payments are made to the customer credit account upon the receipt of the payment on a bank account of 42com.

- (3) It is the responsibility of the partner to ensure it has sufficient credit on its customer credit account to ensure the business operations.
- (4) If the partner has been granted a credit limit, invoices are due immediately and without deduction.
- (5) In the event of late payments of due invoices, default interest shall be charged at the current lawful interest rate. The partner has the right to provide evidence that no damage was incurred, or that it was considerably lower. 42com reserves the right to assert any further damages relating to arrears.
- (6) If the payments made by the partner are not sufficient to cover existing debts the debts shall be covered corresponding Section 366 (2), German Civil Code (BGB).
- (7) A credit line on the customer account is only allowed on a specific individual agreement.
- (8) Instead of suspending its services, 42com can choose to continue providing services. In this case 42com is entitled to a surcharge of 3% on all prices. This surcharge is charged from the moment the credit limit on the partner's customer credit account, or the granted credit limit, runs out.

§ 8 Security

- (1) The partner can be granted a credit limit for the procurement of services from 42com, if it provides security.
- (2) The security can be provided in the form of a bank guarantee from a German financial institute authorised in the Federal Republic of Germany, or in the form of an advance payment.
- (3) 42com reserves the right to satisfy outstanding claims from the contractual relationship at any moment from the security provided by the partner. The partner is obliged to immediately replenish the security to the agreed level, if 42com uses the security and the contractual relationship is continued. The security is released after the end of the contractual relationship, if the partner has settled all the claims of 42com.

§ 9 Rights of setoff / retention

- (1) The partner can only set off claims of its own against claims of 42com, if they are uncontested or legally binding.
- (2) The partner is only entitled to assert a right of retention due to counter-claims from the same contractual relationship. In commercial transactions, the partner can only assert a right of lien in the event of uncontested or legally-binding claims.
- (3) If objections of the partner against invoiced amounts are justified and made on time, the partner is entitled to a right of lien for the partial invoiced amount contested, until the dispute has been clarified. If the partner has made advance payments, these amounts shall be temporarily credited to the partner until the dispute has been clarified.

§ 10 Copyrights

- (1) Copyrights and all other industrial property rights, including patents and brands which are associated with the activities of 42com, are held exclusively by 42com. A claim to the transfer of these rights, or rights arising from this, in particular patent utilisation, only exists if this has been explicitly agreed in writing in an individual case.
- (2) The partner only receives a non-transferable, non-exclusive and temporary right, limited to the term of the contract, for internal use according to the purpose of the respective contract. The

partner is not permitted to implement any use, reproduction or transfer to third parties which exceeds the necessary use according to the contractual purpose.

- (3) Upon the end of the contractual relationship, the partner has to hand back all devices, DP programmes and documentation (including any copies thereof) which are associated with the preparation or execution of the contract, provided nothing else has been agreed in writing.

§ 11 Confidentiality

- (1) The contractual partners are obliged to maintain confidentiality about all information they become aware of in association with the preparation and execution of their business relationship, in particular information which is not publicly known and which the other party has an interest in keeping confidential (in particular operating and trade secrets) - including for a period of 36 months after the end of their business relationship. The contractual partners shall ensure that confidentiality is also guaranteed by their employees and other persons acting on their behalf. Legal notification and disclosure obligations remain unaffected by this, as does the intended use of information necessary to perform the services/deliveries.
- (2) All operational and trade secrets notified to a respective partner, or which it gains knowledge of, as well as any information marked as confidential, regardless of its condition and on what data carrier it is found, (hereinafter referred to as "information") are subject to the confidentiality obligation. This includes in particular price lists, information concerning the design and development of the system in detail and as a whole, as well as the technical know-how of 42com.
- (3) No rights of lien can be asserted. The transfer of information to the partner does not represent any kind of granting of rights.
- (4) The confidentiality agreement also refers to this agreement and its key integral parts, with the condition that a transfer is only permitted to consultants, financial institutes and insurance companies which are sworn to secrecy, as well as the responsible authorities within the scope of the standard duty of disclosure.

§ 12 Assignment

- (1) The partner is only permitted to assign or transfer the rights from this agreement, in full or partially, to third parties with the prior consent of 42com. This does not apply to the assignment of claims for payment as per Section 354a, German Commercial Code (HGB) based on a commercial transaction.
- (2) If this provision is not observed, 42com is entitled to an extraordinary right of termination.
- (3) 42com is permitted to assign the rights and obligations from this contract, in full or partially, to a third party. 42com has to notify the partner in writing about the assignment six weeks before it comes into effect. Within one month of the receipt of notification the partner can cancel the contract with effect from the date on which the assignment becomes valid.
- (4) 42com is permitted to contract third parties with the performance of contractually-due services.

§ 13 Liability, liability exclusion, force majeure

- (1) In the event of personal damage which is caused culpably, with intent, gross negligence, violating material contract obligations and/or violating the product liability law, 42com shall be liable according to the legal provisions.

- (2) For financial damage which is not caused culpably as per the Telecommunications Law (TKG), 42com shall be liable as per Section 44a, TKG.
- (3) Towards public endusers of the telecommunication service 42coms liability is limited as defined in Section 44a, TKG. Towards resellers/ service providers 42coms liability is defined in the following section 4 of §13 or in the specific terms and conditions.
- (4) Irrespective of paragraphs (1) to (3), 42com is not liable for slight negligence, unless it concerns the violations of a material contractual obligation, the fulfilment of which makes it possible for the contract to be executed properly and which the partner can regularly rely on being met. In these cases, the liability of 42com is limited to consequential damage which are foreseeable and typical for the type of business in question. This also applies to lost profits and savings. The liability for any other consequential damage resulting from defects is excluded.
- (5) For the loss of data 42com is only liable according to the aforementioned paragraphs if this loss could not have been avoided by the partner taking suitable data back-up measures.
- (6) 42com is obliged to apply the due diligence customary for the industry. When determining whether 42com is at fault, it has to be considered that software cannot be created fully free of errors.
- (7) 42com is not liable in the event of force majeure which makes it impossible to perform its contractual services or even makes the proper execution of the contract much more difficult or prevents it for a period of time. Force majeure is deemed to cover all conditions which are independent of the will or influence of the contractual partners, such as war and other military conflicts, mobilisation, blockades, domestic unrest, terror attacks, embargoes, confiscation, natural catastrophes, strikes, lock-outs and other labour disputes, governmental measures, decisions by authorities or other serious and unforeseeable conditions which are not the fault of the contracting parties. A condition is only deemed to be force majeure if it occurs after the conclusion of the contract.
- (8) If 42com is hindered from properly meeting its obligations due to force majeure, 42com is permitted to postpone the fulfilment of its obligations for the duration of the hindrance, including a suitable ramp-up time.
- (9) Disturbances to the network or bottlenecks cannot be ruled out. 42com is not liable for lost revenue due to connection quality, carrier problems, routing malfunctions or network access problems or any other problems of this kind, unless 42com caused the disturbance itself.

§ 14 Cooperation obligations of the partner

- (1) In particular the partner is obliged to immediately notify 42com of a change to its name (for companies this also includes a change in the legal form, invoice address or registered office), its address, bank details, tax number and fundamental changes to the financial conditions (e. g. application for or initiation of insolvency proceedings, foreclosure), or have the change notified by an authorised person, if this is necessary for the proper execution of the contract relationship.

§ 15 Term of contract and termination

- (1) If the minimum term is not specified elsewhere, a minimum term of 12 months is deemed to be agreed. If the contract is not ter-

minated, it is extended automatically by a further 12 months. After the expiry of the minimum term, the contract can be terminated by either party with a period of notice of three months, at the end of a calendar month.

The right to extraordinary termination on important grounds remains unaffected by this.

§ 16 Extraordinary termination

- (1) 42com is entitled to an extraordinary right of termination on important grounds. Important grounds include, in particular:
 - a) Long-term default or non-fulfilment of the partner's obligations
 - b) Violation of the confidentiality obligation
 - c) Institution of insolvency proceedings relating to the assets of the partner, or the rejection of such institution due to a lack of assets
- (2) The partner is entitled to an extraordinary right of termination on important grounds. Important grounds include, in particular:
 - a) Long-term default or non-fulfilment of 42com's obligations
 - b) Violation of the confidentiality obligation
 - c) Institution of insolvency proceedings relating to the assets of 42com, or the rejection of such institution due to a lack of assets

§ 17 Deviating agreements, changes to contract, applicable law, place of jurisdiction

- (1) Agreements which deviate from these contractual agreements and changes to the contract have to be made in writing; this applies in particular to the change of this requirement for written form. Deviating verbal agreements shall become an integral part of this contract if they are reflected in the contract; Section 2 applies accordingly.
- (2) 42com reserves the right to change these general terms and conditions. The partner will be notified of changes by e-mail, sent to the e-mail address specified in the order, at least one month before the changes come into effect. For this purpose it is sufficient to provide a reference to a website on which the new version can be accessed, instead of enclosing the whole text. If the partner does not reject the changes in writing within one month of receipt, they are deemed to be accepted. 42com shall notify the partner of its right of rejection, and the consequences of failing to do so, upon any change to the general terms and conditions. If the changes are to the detriment of the partner, it can terminate the contractual relationship within one month of the receipt of the notification of the change.
- (3) Provided nothing else is set out in this contract, all claims arising from this contract are subject to a limitation period of one (1) year. This does not apply to wilful intent or liability due to other mandatory liability standards.
- (4) The law of the Federal Republic of Germany shall apply.
- (5) The exclusive place of jurisdiction for all legal disputes from or in connection with the contracts concluded on the basis of these contractual conditions, is Berlin. 42com is also permitted to file a lawsuit at the registered office of the partner.

Special terms and conditions for software-as-a-service (SaaS)

§ 1 Functional area of validity

These special terms and conditions govern the contractual relationship between 42com and the partner for the standard software programmes (hereinafter referred to as the "software"), which are produced by 42com and provided as a software-as-a-service via the internet. They are an integral part of the general terms and conditions of 42com.

§ 2 Contractual services

(1) Use of software

The subject matter of the contract is the permission to use the software, which is specified in more detail by the description of services and these contractual conditions, remotely via the internet ("software-as-a-service"), as well as allowing data to be saved by the partner on servers which are hosted on behalf of 42com ("hosting"). The partner's internet connection is not the subject matter of the contract, but is the responsibility of the partner as part of the requirements for use. Individual expansions and adjustments to the functionality of the software have to be agreed separately and are not the subject matter of the scope of services.

(2) Operational maintenance

The monitoring of the basic functions of the SaaS services is done seven days a week / 24 hours a day. The operational maintenance of SaaS services is generally done from Monday to Friday from 9 am to 6 pm on working days in the Federal State of Berlin, excluding 24 and 31 December (CET/CEST).

42com shall remove defects and restore the operation in a suitable period of time, within the scope of its maintenance. Errors of the afore-mentioned kind are only documented and reproducible defects which make it impossible to operate the software, or lead to the corruption or loss of data with which the software works or which is generated by the software. The partner has to take suitable measures to make it easy to detect errors and their causes. In particular it shall provide the necessary information.

(3) The individual contractual services are based on (in the following order):

- a) the contract between 42com and the partner and
- b) these contractual conditions.

(4) The assumption of a guarantee for certain characteristics (qualities) requires the written confirmation of 42com in order to have effect.

(5) 42com is permitted to have services performed, in compliance with the data protection agreement, by third parties acting as sub-contractors.

§ 3 Range of functions, quality

(1) The software is a carrier-grade telecommunications platform, which covers all processes from the supply, scheduling and implementation of the services to customer management and invoicing. This includes, for example, the registration of the users, the verification and management of customer data, the allocation of telecommunication services, invoicing of call minutes as

well as the processing and monitoring of payment processes and bookings.

- (2) The specific range of functions of the software is based on the electronic product description (where available), which the partner can access online via the contractual software, as well as the corresponding performance specification. The use of the software's functions by the partner requires access authorisation to the software, which in turn influences the scope of functions available to the user.
- (3) Features on the part of the contractual software which exceed the defined functionality are not due. Technical data, specifications and performance data made in public statements, in particular in adverts, are not assured characteristics.
- (4) The continual development of the software is a key integral part of the SaaS offer of 42com. This includes the optimisation of the software, its adjustment to technical progress and inclusion of the latest operational requirements. The partner has no claims, as a result, on the implementation of further functions, or adaptation to particular performance standards. Within the framework of the software development partial functions can be modified or omitted, provided that the fulfilment of the contractual purpose by the partner is not endangered by doing so.

§ 4 Area of responsibility of the partner / Obligations of the partner

- (1) The partner is obliged, on its own responsibility,
 - a) to check whether the offered services meet its needs, and where necessary to obtain professional advice, within a suitable period of time;
 - b) to ensure that the minimum requirements of 42com on the hardware and software used by the partner for the contractual use of 42com services, have been met;
 - c) to observe the specifications in documentation, handbooks and in particular the electronic product description and other guidelines of 42com about the products used;
 - d) to issue error notifications immediately and in doing so to appoint a qualified contact partner for the error rectification and provision of information;
 - e) to follow the guidelines of 42com concerning fault prevention, in particular observing the safety guidelines on the 42com website regarding measures to protect the hardware and software used (customer system);
 - f) to take sufficient measures to protect its local IT systems from an attack by viruses, Trojan horses or similar malicious software.
- (2) The partner is not permitted to pass on passwords or other personal access data to third parties. All access data is to be stored in a protected place, so that it cannot be accessed by third parties. For security reasons, the password and login credentials do not just have to be changed before the first use of the software, but also at regular intervals (at least every quarter, as well as every time the responsible person is changed). The password

and login credentials shall be changed immediately, if there is an indication or suspicion that third parties have become aware of the information. The password and login credentials must not be saved on a PC or other kind of memory devices (CD-ROM, USB stick etc.) in non-encrypted form.

- (3) The partner has to observe domestic and international copyright and brand, patent, name and trademark laws, as well as all industrial property rights and personality rights of third parties.
- (4) Financial disadvantages and extra costs incurred by 42com due to the violation of these obligations shall be borne by the partner.

§ 5 Availability, maintenance work and defects

- (1) Provided nothing else has been explicitly agreed between the parties, 42com guarantees availability of 99.5% on an annual basis.

Periods of non-availability do not include individual malfunctions or impairments in the availability of the software and/or the provision of software during the regular maintenance windows and/or during the maintenance, installation or conversion work agreed with the partner, as well as shutdowns or decommissioning during this time which have been planned and coordinated with the partner.

The regular maintenance windows are every day from 10 pm to 6 am (CET or CEST).

Furthermore, times of non-availability are deemed to be periods in which the software is not available, or only has limited availability, due to technical or other conditions which are noting the area of influence of 42com (e.g. force majeure, disturbances in the telecommunication lines, third party fault).

Times of non-availability are also deemed to be periods during which 42com is forced to temporarily

- a) restrict access to the software due to an acute threat to its data, hardware and/or software infrastructure, or the data, hardware and/or software infrastructure of the partner due to external risks (e.g. viruses, port hacking, attacks by Trojan horses), or due to
- b) a considerable risk to the security of the network or the network integrity.

In the event of a decision of this kind, 42com shall take the authorised interests of the partner into account, as far as possible, notify the partner about the measures taken and take all reasonable means to remove the access restriction as quickly as possible.

- (2) The responsibility of 42com for the components used to perform the service ends at the data interface between the computer centres of 42com and public data networks, provided nothing else has been explicitly agreed.
- (3) The partner shall notify 42com of interruptions to the availability immediately. The availability is only deemed to be restricted upon the submission of a notification of interruption by the partner and only to the extent that an interruption actually exists. Impairments to the data transfer, which are caused by the local IT system of the partner or a defect in the connection of the partner at the agreed transfer point (e.g. a line failure or line fault by other providers or telecommunications providers), do not represent an interruption in this sense.

- (4) For periods of time which are not defined as non-availability periods or a defect according to the above, the partner cannot derive any claims against 42com.

§ 6 Warrantee

- (1) 42com provides a software warrantee for the contractual software, in accordance with the rules of the rental law (software rental), provided nothing contrary is specified under § 5 above and the following provisions.
- (2) The partner checked on the functions and functionality of the software before the conclusion of the contract. 42com is not liable for defects and functional restrictions which the partner was aware of upon the conclusion of the contract. In addition, the liability of 42com for defects which already existed upon the conclusion of the contract is excluded. The partner can only assert the right of termination as per Section 543, paragraph 2, point 1, BGB concerning usage as rented software, on condition that a case of non-availability or an interruption exists as per Section 5 and it has sent a written request to 42com for rectification in advance and providing a suitable deadline of at least two weeks, and the deadline has expired without effect.
- (3) If defects or functional restrictions occur during the term of the contract, Section 536c, BGB shall apply.
- (4) The guarantee is excluded if the partner makes unauthorised changes to the contractual software, unless these changes would have had no effect on the error occurring.
- (5) In addition, with regard to the agreed availability of the software (Section 5), the minimum basis for the partner's liability claims in the event of a shortfall in the agreed availability will be that the contractually-agreed fee for the underlying period of time used to calculate availability shall be reduced as follows:

Shortfall in the agreed availability (in percentage points)	0.5	1.0	1.5	2.0
Reduction of the contractual fee as per Section 5.1, by (in percentage points)	2.5	5.0	7.5	10.0

- (6) 42com shall document the status of the contractually-due availability. Any credit arising from a reduction in the obligation to pay remuneration shall be deducted from the following invoice. The partner is free to provide evidence of further exemption from the obligation to pay remuneration, based on the general liability of 42com for defects.
- (7) Claims due to defects shall expire after twelve months, unless the defect was fraudulently concealed or 42com acted with wilful intent.

§ 7 Right of use

- (1) The software (programme and electronic product description) is legally protected. 42com is exclusively entitled to the copyright, patent rights, trademarks and all other related rights on the software, as well as other objects which 42com makes available to the partner within the scope of the contract preparation and execution, in the relationship between the contract partners. If third party rights exists, 42com has corresponding exploitation rights.
- (2) 42com shall grant the partner and, where applicable, re-sellers it has authorised, with a non-exclusive, non-transferable and

non-sublicensable right to use the software specified in the contract, and the associated user documentation, for the term of the contract and within the contractually-specified scope. The use is provided by access to the software functions via the internet. The point of transfer for the SaaS services is the router output of the computer centre used by 42com. The customer is not entitled to any further rights.

- (3) Any use of the software which exceeds the provisions of this contract is not permitted. The partner is not permitted to let third parties use the software or to make it available to third parties, and in particular the partner is not permitted to reproduce or sell the software or parts thereof. The partner also has to pay the fees for a third party, if a third party uses the software and if the partner is responsible for this use. For each infringement, a contractual penalty of € 2,000 shall be charged. The partner reserves the right to provide evidence that 42com incurred considerably less damage.
- (4) The partner is not permitted to decompile the software, to perform reverse engineering or disassembling, to reproduce or use any part of the software, to create a separate application or have these actions performed by third parties.
- (5) At the request of 42com, the partner has to provide all the details for the assertion of claims against third parties immediately. This applies in particular to the name and address of third parties, as well as the type and scope of the unauthorised use.
- (6) 42com is permitted to block access, at the partner's expense, in the event of violations by the partner of its obligations. A block of this kind does not release the partner from the obligation to pay the monthly fee for the use of the software.

§ 8 Processing of personal data, data protection agreement, data output

- (1) If the partner transfers personal data to the software, the performance of the contractual services by 42com shall be implemented exclusively on behalf of the partner taking into account the legal prerequisites of Section 11, German Data Protection Act (BDSG).
- (2) As the data processing centre the partner remains responsible for compliance with the German Data Protection Act, the further applicable data protection provisions and the labour law regulations (see Section 11, Paragraph 1, BDSG). A transfer of function to 42com has not been agreed.
- (3) The responsibility of 42com to the partner, including the sub-contractors used, is determined in accordance with the data protection agreement to be agreed in writing by 42com and the partner. The data protection agreement is an integral part of the contract and obliges 42com to observe the obligations contained therein and to guarantee the corresponding rights, in compliance with the legal requirements as per Section 11, paragraph 2, clause 2, BDSG. This also applies if 42com provides services using sub-contractors. 42com assumes no liability to third parties for any violations by the partner and its sub-contractors of Section 11, BDSG and similar provisions.

§ 9 Technical protection of data against viruses and other sabotage programmes

The partner is hereby notified that the data is put at risk by viruses and third party access in connection with the use of the internet. For the specific intended purpose 42com shall use suitable, up-to-date software for detecting viruses and other sabotage programmes, applying the latest version available. Furthermore, a firewall shall also be maintained and regularly updated. This does not result in a guarantee or warranty by 42com in the event of sabotage, virus attacks, malicious software etc.

§ 18 Support services

Support services are not an integral part of the scope of services of 42com and have to be ordered separately, unless they are included in package offers.

Special terms and conditions for telecommunications services

§ 1 Functional area of validity

These special terms and conditions apply to the provision of telecommunication and internet services, and are an integral part of the general terms and conditions of 42com.

§ 2 Services of 42com

- (1) The services of 42com are described in separate performance specifications.
- (2) If 42com provides free services, they can be suspended at any time, and without prior notice. There is no claim for reduction, refund or compensation as a result.
- (3) 42com does not guarantee that its services are or will be defect-free. If an error occurs, the partner shall notify 42com of this in writing, as soon as is reasonably possible. 42com shall take suitable measures to remove the error in accordance with the standard technical procedure for the industry.
- (4) 42com is permitted to temporarily suspend its services, if this is necessary for technical or other reasons, without the partner being able to assert any compensation claims as a result. In particular, calls can be interrupted or their duration limited, if this is necessary due to reasons associated with public safety, for the performance of necessary operational work or to avoid errors on the network. If this is possible in a reasonable manner, 42com shall notify the partner of any planned interruptions in writing with a period of notice of seven (7) days. Liability for temporary interruptions is excluded from the outset. 42com is also permitted to suspend its services if the legal regulatory conditions have not been met by the partner.
- (5) In the event of technical, or any other, problems, 42com shall strive to restore trouble-free operations as far as is possible. 42com reserves the right to change or extend its service, to the extent that this is necessary for improvement, and/or if technical developments allow and/or require it. 42com undertakes only to implement these changes if they are reasonable for the partner and taking the interests of 42com, and other information providers, into account.

§ 3 Forecast

- (1) The partner shall issue a monthly, non-binding forecast of the required volume of the scheduled minutes for each destination in the following months (the "forecast"). These forecasts shall be issued to the best of its knowledge and sent to 42com in writing at the latest seven (7) days before the start of the respective following month. 42com is free to process the traffic beyond the general forecast, if their capacity allows it.
- (2) Provided nothing else has been agreed, the partner is not obliged to use a minimum volume of telecommunications services from 42com.

§ 4 Price changes

- (1) Minute price lists show the prices for telephone minutes and SMS services to various destinations. The prices quoted in the minute price lists are valid exclusively for the specified destinations. All other destinations, break-outs, premium rate connections, audio texts and other added-value services, which are not explicitly offered, are invoiced at EUR 10 (ten Euros) per minute.

General country codes (e.g. "44 - GB") are always replaced by specific codes if they are shown in the phone number list.

- (2) Prices for telecommunications services are subject to constant alterations by the suppliers of 42com. Price rises affecting the minute price lists shall be notified five days before they come into effect by fax, e-mail or in any other electronic way, indicating their contractually-binding effect. Price reductions can also be made by 42com without any prior notice.
- (3) All the afore-mentioned (2) price increases are deemed to be agreed once the corresponding service is used, if the contract partner has not rejected the updated price list within five days of receipt.

§ 5 Liability for misuse

- (1) The partner also has to pay fees incurred due to the permitted use of its telecommunications services by third parties. Fees incurred by the unauthorised use of the telecommunications services have to be paid by the partner, if and to the extent that it is responsible for the unauthorised use. The partner is obliged to provide proof, within its area of responsibility, that it is not responsible for the use. The partner is obliged to take measures to minimise the risk of unauthorised third party access to its computer systems and data, and to obtain suitable advice about this.
- (2) 42com hereby points out that all data can be transmitted unprotected and unencrypted via the internet.
- (3) If the partner has cause to assume that a third party has established unauthorised access, the partner shall notify 42com immediately. While the main responsibility remains with the partner, 42com shall support the partner, as far as possible, in discovering the cause and minimising the damage. Expenses incurred within the scope of this support shall be charged by 42com to the partner at a suitable price.

§ 6 Suspension of the obligation to provide service

- (1) 42com reserves the right to fully or partially block the use of its services in cases as per Section 45k of the Telecommunications Act (TKG).
- (2) 42com is permitted to block the services if there is sufficient suspicion that illegal content is being distributed or processed by the partner, its customers, vicarious and/or performing agents, within the scope of the services of 42com. Urgent suspicion of this kind is deemed to exist in all cases of official notifications or civil law warnings, unless they are clearly unfounded.
- (3) If the partner does not meet its payment obligation, 42com has the right to terminate the contractual relationship without notice.

§ 7 Network interconnection

- (1) If the partner uses the telecommunications services of 42com via an interconnection, the following conditions shall apply:
- (2) The individual features of the network interconnection are agreed in separate technical documents.
- (3) The network interconnection is provided via internet-based IP connections. Each party shall bear its own costs for the connections.
- (4) If one of the parties wants to make changes to its telecommunications system, it shall notify the other party of this in writing and

as soon as possible, and at least seven (7) days before the intended change. The parties shall handle the implementation of system changes, with regard to their modality and the cost absorption, in good faith and in doing so focus on the mutual interests of the parties.

- (5) If the system of one party negatively influences the normal system operations of the other, or if the health or safety of a person is affected, the other party can, if necessary, suspend its contractual obligations until normal system operation is restored, or for the period of time necessary to remove the threat to health or safety.

§ 8 Data protection / telecommunications secrecy

- (1) The partner hereby agrees to the fact that its connection and payment data is saved within the scope of the applicable data protection law provisions (BDSG, TKG) and is exchanged with the network operators after checking individual cases.
- (2) 42com is allowed to collect and use the personal data of the partner contained in the order (inventory data) in accordance with Section 95, Telecommunications law (TKG) and German data protection legislation (BDSG), if the data is required to establish or change the contractual relationship, including the design of its content. Furthermore, 42com is permitted to collect, process and use the following personal data for the provision of telecommunications services (connection data) in accordance with Section 96, TKG, if this is necessary to calculate the fee and for invoicing the partner:
- a) the phone numbers of the device being called and the device making the call, any authorisation codes, the card number and the respective location code,
 - b) the start and end of each connection by date and time and, if the fee depends on it, the quantity of data transferred,
 - c) the telecommunications service used by the partner,
 - d) the end points of the connections and their start and end by date and time. The connection data mentioned in a) to d) above is saved in full, after the sending of the invoice, for the duration of the legal obligation to keep records.
- (3) 42com is permitted to respond to requests for information from state criminal investigation authorities on behalf of the partner (e. g. requests for information as per Sections 112, 113 TKG) within the framework of legal provisions. The partner can reject these regulations in writing at any time.
- (4) 42com reserves the right to contract third parties (e.g. law firms or debt collection companies) with the collection of outstanding debts, whereby the necessary invoicing data to collect the debt is notified in accordance with legal provisions.
- (5) If the connection data has been deleted at the explicit request of the partner, 42com is correspondingly freed from its obligation to submit this data to prove the invoiced amount is correct (Section 45i, paragraph 2, TKG - Telecommunications law).
- (6) If an itemised bill is used, the partner has to notify all current and future users of the affected connection of this, and in the event of commercial use, to notify all current and future employees and/or customers about this immediately.

§ 9 Corrective maintenance services / Rights arising from defects

- (1) In the event of a network defect and/or other performance defects, the contractual provisions shall apply. If the cause of network and/or other performance defects lies in the partner's area of responsibility, it has to bear all the expenses incurred by 42com for the error detection and removal.
- (2) If work and/or services performed are defective, 42com reserves the right to provide supplementary performance or replacement delivery. The partner has to grant 42com the necessary and reasonable time and opportunity to perform the rectification and/or replacement delivery. 42com is to be notified of any defect immediately in writing.

Special terms and conditions for telephone number services

§ 1 Functional area of validity

- (1) These special terms and conditions apply to the provision of telephone number services and are an integral part of the general terms and conditions of 42com. They supplement the special terms and conditions for telecommunications services.

§ 2 Prerequisites for the allocation of geographical telephone numbers from German networks

- (1) The partner shall guarantee that participant telephone numbers are only used within the framework of the application allocation rules of the Federal Network Agency. In particular, the partner confirms that it has checked that the necessary permanent connection exists between the relevant local network and the place of residence or work of the end customer, to whom the telephone number(s) is/are allocated, in accordance with the allocation regulations of the Federal Network Agency, and that this connection is ensured during the term of the contractual relationship.
- (2) The place of residence or registered office must be verified with regard to compliance with the limits of the local network regions, both at the start of the contractual relationship with the participant, and during its term (validation of the authorisation of use). Local network numbers are only allowed to be used if the connection to the local network can be ensured based on the validation processes used and based on the design of the contractual relationship with the participant.
- (3) The place of residence or registered office must be verified by the partner, in particular on the basis of official documents (e.g. using a personal identification or registration document in the event of a place of residence or an excerpt from the commercial register or a certificate of registration for the registered office of a company). The criterion "registered office" is linked to the regulatory content of Section 14, Paragraph 1, Clause 1, German Industrial Code (GewO). Accordingly, the independent operation of a company or branch office is to be indicated to the authorities responsible at the location in question. The term "registered office" in accordance with the allocation regulations is not, however, limited to business enterprises, but in particular also applies to people performing independent professions, if the permanent place of work can be verified in a similar way to the certificate of registration e.g. by certification from a professional association. The partner encloses a copy of evidence of the place of residence / registered office.
- (4) The partner shall provide 42com with all documents which are

necessary to prove the validation of the requirements of the authorisation for use, on request, within 24 hours (Mon-Fri. excluding public holidays). If the customer does not provide these documents to 42com on time, the customer has to indemnify 42com against all resulting disadvantages. If it is not possible to provide evidence of the place of residence or registered office (e.g. home office, contractor or similar) suitable evidence is to be provided (e.g. electric or gas bill).

§ 3 Distribution for incoming calls to 0180x shared-cost numbers from German networks

- (1) The distribution for incoming calls on 0180x shared-cost numbers, exclusively from German networks (hereinafter referred to as the distribution), is implemented according to the following regulations:
- (2) Distribution is only possible
- for partners from Germany, if evidence can be provided of a German tax number or VAT ID number,
 - for partners from other countries in the European Union, if they can provide evidence of a VAT ID No. or
 - for partners from other countries, if a certificate of entrepreneurial status can be provided by the respectively responsible financial authorities in the third country and
 - if it has been recognised by the respective network operators (pre-suppliers) as proper and
 - has actually been unconditionally paid to 42com.
- (3) The partner shall receive a monthly credit note from 42com for the distribution as per paragraph (2). The distribution can either be paid out to the partner or paid into its customer credit account as offsetting.
- (4) Instead of providing a monthly credit note, 42com can deduct the amount due from the total minute price stated in the latest invoice, in accordance with the corresponding § 5(2) of the general terms and conditions. In this case the deducted distributed amounts are deemed to be payments on account. If the prerequisites of (2) have not been met, they can be recalculated within 6 months after the end of each calendar year.

Special terms and conditions for web space and domain services

§ 1 Functional area of validity

- (1) These special terms and conditions apply to the provision of web space and domain registration services and are an integral part of the general terms and conditions of 42com. They supplement the special terms and conditions for telecommunications services.

§ 2 Use of web space

- (1) 42com shall provide the partner with web space to host 42one templates, so that the partner can adjust the appearance of the templates itself. The web space is initially restricted to 10 GB. The partner shall receive FTP access for this purpose.
- (2) Illegal material is not permitted on the 42com servers. This concerns images, videos, other types of files or links to illegal images and similar content. Illegal content is, for example, (although not limited to) copyrighted material or similar material which the partner is not permitted to publish or save due to legal regulations. It is also not permitted to save erotic, pornographic or any other indecent material on the 42com servers. In the event of violations, the contract partner has sole liability and shall indemnify 42com against any third party claims. It is up to 42com to decide which material is to be allocated to one or more of the afore-mentioned categories. 42com reserves the right to immediately delete content of this kind without notice. In the event that material of this kind is deleted, the partner cannot assert any compensation claims against 42com, unless it concerns an injury to life, limb or health or a wilful or grossly-negligent violation of its obligations by 42com.

§ 3 Domain registration, certificates

- (1) To use the web space, it may be necessary to register internet domains and safety certificates. If the partner orders one or more internet domains and safety certificates for private or commercial purposes, the following shall apply: The subject of this contract

is the registration, by 42com, of the domain requested by the customer and the maintenance of the registration. In the registration process, 42com merely acts as a broker between the domain registration office and the customer. As 42com has no direct or indirect influence on the issuing and/or availability of the desired domain, no guarantee can be assumed for the allocation. This also applies to the period of validity of the domain. Particular notice is to be paid to the fact that no guarantee can be provided that the domain requested by the partner is free of third party rights. This also applies to any sub-domains issued. The partner therefore exclusively declares, upon contracting 42com with the domain registration, that the requested domain does not violate the (intellectual property) rights of any third parties.

- (2) If claims, particularly compensation claims, are asserted by third parties against 42com, which are due to the fact that third party rights have been violated by the domain requested by the partner, and delegated and registered by 42com, the partner shall explicitly indemnify 42com and the domain registration office against these claims.
- (3) In the event of legal disputes against the partner due to the domain registered and delegated by 42com, the partner is obliged to notify 42com immediately, especially if it is accused of violating the rights of third parties by this use. In this case, 42com is authorised to cancel the disputed domain, even before the start of the contract, on behalf of the customer.
- (4) After the expiry of the contract, 42com is permitted to hand back the domain to the registration office, to use it for other purposes, or to make use of the domain itself. The partner shall not incur any costs in any of these cases. Until the expiry of the contract, the partner can make a connectivity coordination request to move the domain to a different provider. 42com shall agree to the transfer, if all the claims from this contractual relationship have been met.

Special terms and conditions for consulting services

§ 1 Functional area of validity

These special terms and conditions govern the contractual relationship between 42com and the partner for the provision of consulting services. They are an integral part of the general terms and conditions of 42com.

§ 2 Method of operations

- (1) 42com shall support the partner in its operative business and provide support with the implementation of the jointly-developed plans. The activities of 42com are of a purely consulting nature. The partner has no disciplinary authority over employees of 42com. 42com assumes no positions within the partner's organisation.
- (2) The company management and the associated decision-making obligations remain the responsibility of the partner. The subject matter of the project order is the agreed consulting service, not a particular financial success. 42com does not guarantee that particular forecast results will or will not occur.
- (3) The agreed services are provided by 42com. If necessary, sub-contractors can be involved by 42com, provided they are subject to the same obligations to the customer, as 42com is. 42com assumes the responsibility for all work.
- (4) All project work is essentially performed at 42com's location in Berlin. If it makes sense for partial tasks of the project process, 42com is free to perform these tasks at another location.
- (5) The order is executed according to the principles of proper professionalism.

§ 3 Support by the partner

- (1) The partner shall provide 42com with suitable rooms for performing work due on site at the partner's office, free of charge. 42com is permitted to use photocopiers, fax machines, telephones and internet access, free of charge, for work associated with the project.
- (2) The partner shall support 42com within the scope of its possibilities and ability, and ensure the prerequisites are met in its operating sphere which are necessary for the proper execution of the contract. Without this requiring a special request 42com shall also be provided with all documents in good time which are recognisably necessary and relevant, in the view of the partner, for the execution of the contract. 42com shall be notified of all procedures and conditions which could be of importance for the execution of the contract in the partner's opinion.
- (3) Where necessary, 42com will use the facts and figures of the partner during the project work. The responsibility for the accuracy of the company data lies with the partner.

§ 4 Confidentiality

- (1) All information from the partner which is made available to 42com is to be treated as confidential and not forwarded to third parties. The obligation continues to apply even after the end of

the working and contractual relationship. Non-personal data which 42com is given shall be returned to the partner on request.

- (2) 42com is obliged to observe the valid data protection and confidentiality provisions. The employees of 42com who are involved in the work are obliged not to use their findings for purposes other than those contractually agreed. All personal records, evaluations and data carriers shall be handed to the partner after the completion of the project, or destroyed or deleted after prior agreement with the partner. 42com shall confirm this to the partner in a legally-binding way (if required).
- (3) Confidential statements made by employees of the partner or external employees to 42com within the framework of the project shall be treated by 42com as confidential. Corresponding documents shall be made available to the partner.

§ 5 Termination

- (1) Provided nothing else has been specified in an individual contract, 42com grants the partner the right to terminate the contract with a period of notice of 4 weeks to the end of the month. The partner derives no obligations from this, apart from the confidentiality agreed in § 4. The consulting services performed to that point, including any ancillary costs, are to be paid for by the partner. If the contract is not terminated properly, it shall be extended automatically by a further month. 42com can terminate the contract with a period of notice of four weeks. The termination has to be made in writing.
- (2) The right to extraordinary termination without notice for good cause remains unaffected by this.