

§ 1 Object of the contract

1. InternetQ GmbH (IQ) is a provider of telecommunication services, telecommunication-supported services and payment service (services) for the implementation of value-added services for its customer or for their customers (content provider).
2. IQ is neither the provider of these value-added services nor does IQ offer the value-added services as its own nor as third-party content. The customer bears the risk of marketing the value-added services.
3. The customer is not entitled to sell the services of IQ on to other service providers. However, they are permitted to make use of assistance and to purchase the value-added service content from third parties.
4. The customer is only entitled to use the services of IQ for the distribution of digital value-added services or digital merchandise.

§ 2 Contractual basis

1. IQ performs its services exclusively in accordance with the provisions of these General Terms and Conditions (GTC). In addition to the GTC, the Special Terms and Conditions including the description of the services (STC), the rate sheets issued and the contractual forms of IQ are integral parts of the contract. If the customer uses several services of IQ, then the respective STC apply cumulatively. By using the services of IQ, the customer accepts the exclusive validity of the GTC, STC, rate sheet and contract forms of IQ.
2. In case of regulations to the contrary, additional agreements, rate sheets, contractual formulas and STC have priority over this GTC in descending order.
3. Deviating Terms and Conditions of the customer are not integral parts of the contract; they also do not apply if IQ has not explicitly contradicted them in the individual case.
4. Both contractual parties have to observe the application Data-Protection regulations, especially all provision for the performance of telecommunication services. Furthermore the general legal regulations apply, even if they are not explicitly referred to.

§ 3 Contract conclusion and adjustments

1. A contract comes into effect with an order by the customer together with a written order confirmation from IQ. The customer is bound to its order to IQ for six weeks. IQ remains free of obligations when accepting orders.
2. A contract can also be concluded by IQ by activating the respective service, by processing a transaction or by establishing a connection, if there is clearly a corresponding will by IQ to conclude a contract.
3. Prior to the conclusion of the contract, IQ is authorised to check the credit rating of the customer and to transfer the

necessary data to credit reporting agencies or credit insurance companies.

4. The customer is aware that individual services are in a project status and therefore there could be some significant changes in the services on the part of the carriers and/or IQ, which could even include its cessation. Changes could also become a required specification based on regulatory, tax or other legal aspects. Therefore, IQ is entitled to cancel without notice or to adapt the affected services according to their own estimate based on the above-mentioned specifications and will announce the required respective changes in appropriate time.
5. IQ is authorised to adjust the technical, operational and contractual requirements of their services at any time, provided that the adjustment is reasonable to the customer, in particular leading to an improvement in the services or the services themselves are not being negatively affected.
6. The customer will be informed of any other amendments to the contract, in particular alterations to the GTC, STC or conditions by sending the new respective contractual conditions. This can also be done in the context of new offers. The transmission of the contract amendment to the customer can also be done through e-mail to an e-mail address of the customer. If the contractual conditions are amended to the disadvantage of the customer, the customer is allowed to cancel the contract for exceptional reasons within two weeks of receipt of the new contractual conditions. If a contractual amendment only affects individual services, then the customer only has the right to cancel the contract for exceptional reasons for these individual services. If the customer does not make use of his right of cancellation, the amendments come into effect for all existing contracts with the customer upon receipt of the new contractual conditions.

§ 4 Statistics

1. If IQ supplies transaction reports (statistics) to the customer, the personal data of the user of the value-added services or the owner of the connection used (owner) is made anonymous in the statistics in accordance with the respective applicable data-protection regulations.
2. Depending on the agreement the statistics are either transmitted by the customer accessing them or by IQ sending them.
3. All statistics are purely informative and are not relevant to the billing.

§ 5 Billing the services

1. The customer receives invoices or credit notes (billings) from IQ monthly for the amount to be paid or the refund due to the customer.

2. The basis of all billings are the prices in the current rate sheets for the affected services, plus the legally applicable VAT.
 3. Monthly costs of IQ shall be billed monthly, even if the services begin or end in the course of a month. Services which IQ bills hourly shall always be billed per hour or part thereof. Bills for traffic minutes and transactions shall be calculated using the traffic reports calculated by IQ.
 4. Unless stipulated differently, all prices and rate sheets of IQ are stated excluding the legally applicable VAT and if applicable less withholding tax or any similar tax. Payments to foreign customers are forwarded excluding the respective national VAT.
 5. Payments shall be carried out cashless. Any applicable bank charges and fees shall be borne by the respective payee. If payments are made in a foreign currency and/or from a foreign account of the customer, then the customer shall bear the bank fees and charges resulting from the transaction as well as the currency risk; in addition IQ will levy a processing fee per transfer.
 6. Bills are to be issued in the national currency of the respective country for which the services are offered. Provided that nothing else is agreed, payments are to be made to the customer in EUROS. The respective currency conversion is made at the exchange rate, which is applicable on the associated credit note of the respective carrier to IQ. In particular, within the scope of re-debiting, currency fluctuations are to be borne by the customer.
 7. All invoices of IQ become due for payment immediately after receipt. If the customer defaults more than five calendar days with a payment, then IQ will charge an annual interest rate of 8% above the basic rate of interest; for customers who are consumers interest at 5% above the basic rate of interest will be charged. Reference amounts for the basic rate of interest are the details from the European Central Bank or a corresponding tariff linked to it. Both contractual parties are allowed to provide proof of greater or less damage. Furthermore IQ is permitted to assert further claims. In case of a default in payment by the customer, IQ will charge an adequate processing fee.
 8. Objections against invoices have to be made to IQ in writing. Invoices of IQ are valid as being accepted by the customer if they are not disputed in written form within four weeks of receipt.
 9. The customer is only allowed to offset amounts with legally-valid or undisputed claims against IQ; the same applies to the right of withholding. IQ reserves the right to offset the claims of the customers directly with its own debts or charges.
- § 6 Preventing misuse**
1. The customer is obliged not to use the services of IQ abusively, above all not to offer any illegal content (e.g. immoral, criminal or anything which violates the law), to provide it in any other way, and not to acquire the offered content illegally. Furthermore, the customer has to ensure that neither users nor potential users of the value-added service receive unsolicited adverts, telephone calls or any other unsolicited message. The customer ensures that the information and value-added services offered are not subject to copyrights, related rights or other rights of third parties and are allowed to be offered on the respective market by the customer or the content provider.
 2. In addition to the applicable legal provisions, regulations and regulatory requirements the customer is obliged to adhere to all respectively valid codes of conduct of the country, from which the offered value-added services can be reached. The customer is obliged to inform himself about any country-specific regulation and notification obligation.
 3. As the provider of the value-added services, the customer is solely responsible for their content, sale and advertising. The customer has to provide IQ with a detailed description of the planned value-added services in writing, according to the specifications of IQ, in particular containing the information about tariffs, content, the providers responsible for them and the media in which the value-added service is to be advertised. Only after written confirmation of this description by IQ can the affected services of IQ be used. Alterations to the value-added service are only permitted after the confirmation of the adjusted description. An approval by IQ is not a permanent endorsement of the affected value-added service. Each use which deviates from the approved description represents misuse by the customer.
 4. IQ is not responsible for the contents of the offered value-added services of its customers or the content providers. Even with approvals as per paragraph 3, IQ does not assume any responsibility for a value-added service; the sole responsibility remains with the customer. The customer will make it clear to the users during the marketing of the value-added service that the content offered is exclusively the content of the customer or of their customers. In no way shall the impression be given that IQ offers this content as its own or that IQ is responsible for the content.
 5. The customer is obliged to abstain from all improper use of the service, in particular
 - a) not to bypass the security measure of the systems of IQ or of third parties;
 - b) not to transmit any computer viruses or other damaging or faulty software or to request its remittance;
 - c) not to use anything that could lead to damages or impairment of the installations of IQ or its partners.
 6. In case of a violation of paragraphs 1 to 5, IQ may issue the customer with a warning about this. The customer shall completely refrain from the criticised behaviour immediately, although at the latest within two days of receipt of the warning

7. In case of a violation of paragraphs 1 to 5 the customer is furthermore obliged to pay a contractual penalty to IQ of € 1,000 per violation in each individual case. "Individual case" refers to the respectively affected service, value-added service of advertising.
 8. The customer has to actively help with the clarification of circumstances, which may represent misuse as per paragraph 1 to 5. In case of any enquiries about the value-added services or their advertising, IQ is allowed to directly refer them to the customer and pass on their contact details. For this purpose, the customer shall make its official contact address including the names and address of the people authorised to represent it available to IQ; each alteration to this core data has to be notified to IQ immediately in writing. These regulations continue to apply after the end of this contract.
 9. IQ shall charge the customer a reasonable one-off fee of at least € 150 per case for expenses incurred in connection with any non- contractual use of the services of IQ.
 10. IQ explicitly reserves the right to assert other compensation claims. Among others, the customer has to immediately cover any contract fine that may be imposed by any carrier.
3. The customer has to immediately report occurring defects to the support hotline stated by IQ. Further details are regulated in the individually agreed Service Level Agreements (SLA).
 4. A pre-requirement of an efficient defect removal is that the customer fulfils its obligation to help. The customer generally has to offer reasonable help with the analysis of defects. If the customer does not fulfil its obligation to help or does not do so fully, then the lost connection availability time and reaction time demanded will be taken into consideration in favour of IQ.
 5. If the customer causes the defect or if a defect reported by the customer does not exist, then the customer shall bear the costs incurred for the removal of the defect. The removal of defects from end devices and other technical appliances of the customer is exclusively the obligation of the customer.

§ 7 Dates and deadlines

1. IQ will make the agreed services available to the customer as quickly as possible. Provision dates and delivery deadlines are only binding, if they have been explicitly confirmed by the customer as being so. Binding dates and deadlines shall be extended because of an unexpected obstacle to the provision which was not caused by IQ by a suitable time period; the same applies if the customer does not meet its obligation to help.
2. If IQ is late with the service to be provided, then the customer reserves the right to withdraw from the contract if IQ is still unable to provide the service within a subsequent, suitable deadline extension.

§ 8 Maintenance and removal of defects

1. The customer shall inform IQ in time about any considerable changes in traffic volume which exist or are upcoming. Furthermore, the customer is obliged to inform IQ immediately about any conspicuous uses or alterations to the service.
2. If the customer has a forecast to deliver, IQ restricts the service obligation to the capacity indicated in the forecast. From the temporary termination of a higher capacity there is no obligation or assumption that IQ will also terminate this increased capacity in the future. The forecast is only binding in writing. If the customer desires a change to the forecast, they must indicate this in writing to IQ four weeks in advance. The change will only come into effect if IQ confirms this in writing.

§ 9 Guarantee

1. IQ shall provide proper operation of its services within the scope of operational and technical possibilities. It shall guarantee the performance of its services according to the recognised and normal state of technology and under observance of all applicable safety regulations.
2. In performing its contractual services, IQ is permitted to make use of the services of other providers, in particular of Mobile Network Operators (MNO), Local Exchange Carriers (LEC), Inter-exchange Carriers (IXC) or Service Providers (SP) or payment providers, who will herein be referred to as Carriers. If IQ receives services from other providers, then, in particular, they shall have no effect on the quality, quantity and constant availability of the networks and transmission paths used. IQ shall, however, assign any compensation claims to which it is entitled to against other providers to the customer, who accepts this assignment in lieu of performance.
3. The customer is aware that the utilisation of IQ services is dependent on the advance of the Carriers and that the customer uses the services of IQ together with other customers. In addition, contract infringements of single content providers can lead to individual or all the Carriers adjusting the advance service vis-à-vis IQ, even if neither the customer nor IQ advocates this. The parties agree that IQ services are offered under this risk and that IQ is not responsible for this risk, as long as IQ does not behave illegally or in breach of contract. If the services described above are disengaged by the Carriers, this will mean a case of impossibility that IQ is not responsible for.
4. Force majeure events, which make it considerably more difficult or impossible for IQ to perform its contractual services, allow IQ to completely suspend the fulfilment of their obligations for the duration of the event or for a suitable start-up period. Force majeure events are equivalent to other conditions, which are unforeseeable, serious or not caused by IQ. IQ shall inform the customer immediately about the

occurrence of events of this kind, if this is possible and reasonable in the circumstances.

§ 10 Liability

1. If IQ is sued by a customer because of pecuniary damage resulting from IQ telecommunication services and IQ is liable in the internal relationship, then IQ shall be liable up to €12,500 per case and per customer. The total liability towards the customer's end users is limited to € 10,000,000 per liable event. If the amounts payable to several customers as a result of the same event exceed this limit, the compensation shall be reduced so that the total of all claims matches the limit. The liability limitation does not apply if the damage was caused wilfully. For all other cases of pecuniary damage, the liability of IQ is limited to a maximum of €12,500 per case.
2. For other damage (including all pecuniary damage not related to telecommunication services) IQ shall only be liable for itself and its agents, regardless of the legal reason, if a significant contractual obligation (cardinal obligation) has been culpably violated in a manner contrary to the purpose of the contract or the damage was caused by gross negligence or intent. If a culpable breach of a cardinal obligation is not due to gross negligence or wilful intent, then the liability shall be limited to typical contractual damage which was foreseeable when the contract was agreed. For foreseeable damage a maximum amount of €12,500 is assumed.
3. In case of damages caused by gross negligence which do not affect essential contractual obligations, IQ rejects liability for indirect damages and non-typical consequential damages and which furthermore amount to the average contractual damage, although at a maximum of €12,500 per case.
4. The liability of IQ for guaranteed characteristics or for personal injuries as well as according to the provisions of the Product Liability Law remains unaffected.
5. If the liability of IQ is validly excluded or restricted, this also applies to the personal liability of the employee, other employees, bodies, representatives and the agents of IQ.
6. The customer shall exempt IQ at first request from all third party claims, even after the end of this contract, which are asserted against IQ from the utilisation of the customer's services, especially those regarding incorrect content, defectiveness or the illegality of the service, or due to other violations of the customer against its contractual obligations and/or obligations relating to the requirements of the network operator.
7. The customer is liable for all its agents, their own customers and the final service providers.

§ 11 Suspension and Right of Retention

1. IQ is authorised to stop (suspend) the utilisation of the contractual service, i.e. access to the value-added services, with immediate effect, if
 - the customer has not performed corrective action on time after a warning as per § 6 No. 6,
 - there is a threat of danger to the equipment or the appearance of IQ, or a danger to public security,
 - there is a pending police or legal investigation against the customer or the content provider, or there is sufficient suspicion of a crime of this kind,
 - the customer has provided IQ with cause to cancel the contract without notice,
 - the customer is in default of payments amounting to at least €150, and any deposit provided has been used up,
 - the amount of remuneration increases considerably (over 50% within four weeks) and facts allow the assumption, that the customer will not pay the remuneration for services performed in case of a later block, and any deposit provided has been used up,
 - the amount of remuneration makes it obvious that the traffic volume could clearly have been, at least partially, arrived at due to manipulation or misuse, or
 - IQ has been informed by carriers that there may be reclamations.
2. If the pre-requirements for a suspension exist as per paragraph 1, IQ has furthermore the right of retention with regards to the provider remuneration to be passed on until final clarification.
3. Both a suspension and the scope of a right to retention shall be proportionate.
4. IQ reserves the right to reject its calculations, if the circumstances stated in paragraph 1 only occur, or IQ only becomes aware of them later.
5. In case of a suspension or the exertion of a right of retention the customer is obliged to continue to pay the agreed amounts to IQ.
6. If the customer is guilty of causing the requirements in paragraph 1 to be met, then its right to remuneration for the period of the suspension or the exertion of the right to retention becomes invalid.
7. Furthermore, IQ reserves the right, if the contract is terminated, to demand security from the customer for any subsequent claims or charges made by the MNO. The amount of this security must be related to the realistic value of the expected defaults. Alternatively, IQ can withhold a corresponding amount from the outstanding payments. The security shall be safeguarded by IQ in a separate account. This shall be disclosed to the customer upon request. As soon as it is ascertained that no more outstanding debts can be asserted, IQ shall immediately release the securities.

This shall also apply if customer sales decrease rapidly (>30% reduction in 4 weeks).

§ 12 Rights of use and confidentiality

1. All copyrights, rights of performance, trademarks and other related rights, which occur, are acquired or have to be acquired on the services and work results of IQ in connection with this contract (e.g. Maintenance concepts), are exclusively the property of IQ. After the end of the contract these services are only allowed to be used under licence. The precise terms shall be agreed in a corresponding licence contract.
2. Each contractual partner hereby guarantees the non-exclusive and non-transferable right of use, limited to the term of the contract, for the programs, applications and concepts created or developed in connection with this contract to the other party.
3. After the end of this contract, each contractual partner is immediately obliged to hand back the originals and all copies and partial-copies of programs, applications and concepts, which the other contractual party made available to them. In case of material which is recorded on machine-readable data carriers, the data has to be completely deleted or destroyed instead of handed back.
4. The contractual parties are both sworn to confidentiality. This confidentiality obligation covers all information about the respective contractual partners and their associated companies as well as about their (including potential) contractual partners. The contractual parties are obliged to make sure that third parties are not made aware of business secrets. Sensitive information and business secrets include special knowledge about the processes and business methods of the respective contractual partner and its companies in a technical and economic regard. The content and conditions of this contract are also subject to confidentiality.
5. The obligation affects all information and facts, regardless of whether they have been explicitly labelled as confidential, unless they are already generally known or the affected party is obliged by an official or legal provision to disclose the information or the explicit prior written agreement of the respective contractual partner exists for the information to be passed on to third parties.
6. The obligation of confidentiality continues to exist even after the end of the contract.

§ 13 Term / termination

1. The contract shall enter into force at midnight on the date confirmed by IQ and can be cancelled from both sides with a notification period of twelve months, effective at the end of a quarter of a year.

2. The contract can be cancelled by each contractual partner for important reasons with immediate effect. An important reason exists, if
 - in spite of a warning the customer continues to violate the behavioural obligations in § 6, paragraphs 1 to 5.
 - the amount of user complaints exceeds 5% of the transaction volume,
 - IQ receives repeat regulatory measures or administrative acts, especially shut-down requests, bans on invoicing and fines, which affect the value-added services of the customer,
 - the customer is in default of payments for two months, insolvency proceedings have been initiated against it or were rejected due to a lack of capital or it is threatened by insolvency,
 - A contractual partner of IQ stops the offer, used numbers are switched off or contracts relevant to IQ are cancelled,
 - Services of this contract are banned due to regulatory, tax-authority or legal measures or have been threatened to be stopped,
 - any other long-term economic, legal or actual worsening of the services offered by IQ occurs.
3. If IQ cancels the contract for important reasons which the customer has caused due to gross negligence or wilful intent then the customer is obliged to compensate IQ for the resulting damage.
4. The cancelation of this master agreement includes all services conducted by IQ for the customer. All ongoing or just ordered services as well as all individual orders are terminated simultaneously with this master agreement. Individual services may be terminated with a notice period of three months to the end of the month, unless a different notice period is mentioned on the rate sheet or unless the carrier determines a longer notice period.

§ 14 Concluding provisions

1. The customer has to transfer the obligations from this contract on to its own customers. Furthermore it is only allowed to transfer rights and obligations from this contract or its claim to individual services onto third parties after the prior written agreement of IQ as long as this restriction is legal.
2. Should individual provisions of this contract be invalid or impracticable in full or in part, or if they become invalid or impracticable subsequently, the validity of the remainder of the contract shall be unaffected by it. In place of the invalid or impracticable provisions, a reasonable provision shall apply, insofar as is legally possible, which comes closest to the desired commercial purpose. This shall also apply should loopholes be discovered in the contract.
3. There are no verbal agreements to this contract. Amendments and addenda are only valid if they are agreed

in writing and are signed by both parties. This written form clause can only be waived with written agreement. Transmissions through e-mail or telefax message are to be considered as written form.

4. German law shall apply to the contractual relationships, as it applies to domestic persons. The UN rule relating to purchasing is excluded. Place of jurisdiction and performance, insofar as the customer is a merchant or juridical person under public law, or does not have a place of jurisdiction in Germany, shall be Hamburg. Any exclusive place of jurisdiction shall remain unaffected hereby.