

General Terms and Conditions – Business Customers

Valid from 15 January 2022

I. GENERAL PROVISIONS

1. Contracting Parties / Validity

- 1.1 These General Terms and Conditions ('T&Cs') form the basis for the contractual relationships between Claranet GmbH, Hanauer Landstraße 196, 60314 Frankfurt am Main, Germany ('Claranet') and you, the contractual partner ('Client'). Claranet offers its work and services (hereinafter referred to as 'services') on the basis of these T&Cs and the provisions in the order form ('OF'), the service description ('SD') or service confirmation ('SC'), and the Service Level Agreement ('SLA'). The provisions of the SC or SD, OF and SLA take precedence over these T&Cs.
- 1.2 These T&Cs shall apply to all future business relations, even if this is not explicitly agreed. General terms and conditions of the Client will not be accepted and do not apply.
- 1.3 A contract takes effect between Claranet and the Client with the acceptance of the Client's order in the form of an order acknowledgement by Claranet.
- 1.4 If the additional provisions laid down in Sections II - VI apply, they apply in addition to and with precedence over this Section I.

2. Scope of Services / Services Provided by Third Parties / Changes in Services

- 2.1 The services to be provided by Claranet result exclusively from the order documents (OF, SD or SC and SLA).
- 2.2 Claranet provides agreed maintenance services (system maintenance) during the maintenance periods ('maintenance windows') as specified in the order documents or otherwise agreed with the Client. During maintenance windows, the Client has no entitlement to use of the services, as the services are regularly only available for use to a limited extent, at a reduced service quality or not at all during maintenance windows. Maintenance services (system maintenance) for software are only ever provided for the latest software version.
- 2.3 Claranet will regularly measure the storage volume used with the help of system checks. If the agreed quantities are exceeded, the Client will be charged for this in accordance with the service confirmation.
- 2.4 The Client is not entitled to hand over the services purchased from Claranet for use by third parties – in particular consumers as defined by Section 13 of the German Civil Code (BGB) – without written permission from Claranet. 'Third parties' does not include the Client and companies associated with the Client as defined by Sections 15 et seq. of the German Public Companies Act nor companies or persons acting on their commission. Claranet shall not refuse approval arbitrarily.
- 2.5 Insofar as Claranet provides the Client with software by third-party licensors, services from public cloud providers and other third-party services, Claranet will inform the Client of the particular contractual terms applicable to the use of these third-party services and make such terms available to the Client upon request. Insofar as third-party providers make the provision of their services contingent upon the condition that the Client undertakes to accept particular contractual terms directly with the third-party provider, Claranet will not be obliged to provide the third-party services if the Client does not accept the terms of the third-party service provider as required. Other companies within the Claranet Group also apply as third parties in the meaning of this provision.
- 2.6 Dates and deadlines for service provision by Claranet are only binding if these are explicitly confirmed in writing by Claranet and the Client itself fulfils all prerequisites for the provision of services by Claranet which lie within the Client's sphere of influence in a timely manner. All dates and deadlines are subject to timely delivery by Claranet's suppliers, unless Claranet is liable for the untimely delivery by its suppliers.
- 2.7 Claranet is entitled to make changes to the contractually-agreed services where necessary for compelling reasons that were unforeseeable upon conclusion of the contract and to provide the Client with a replacement service of the same value comparable in type, scope and quality in place of the affected service at otherwise unchanged conditions (in particular with regard to price), provided this is reasonable for the Client and the relationship between service rendered and compensation does not shift unfavourably for the Client. Compelling reasons particularly include technical improvements, modifications to technical developments, and legislative changes or significant decisions by the German Federal Network Agency (BNetzA), which necessitate a change.
The Client will be informed of the intended change in writing at least three (3) months before it comes into effect. If the Client does not object to the change within one (1) month after notification of the change is received in writing, the change shall take effect as described in the notification. In the event that the Client objects, Claranet will be entitled to extraordinary termination of the contract with regard to the service concerned or as a whole with effect from the date on which the change is due to take effect. Notice of termination is to be given in writing by Claranet within one (1) month from receipt of the written notice of objection. When notifying the Client of the change, Claranet will draw the Client's particular attention to the right of objection and the consequences of failing to object or failing to object on time. Should Claranet fail to terminate with sufficient notice in writing, the unchanged services will continue to apply.
- 2.8 In the event that hardware provided to the Client as part of the services is no longer available or no longer corresponds to the state of the art, Claranet shall endeavour to provide the Client with an adequate replacement. This can lead to additional costs which shall be borne by the Client. Claranet shall inform the Client of any additional costs without delay.
- 2.9 Should software used by the Client and not provided by Claranet within the scope of the contract with the Client (e.g. operating systems, databases, etc.) ('Client software') no longer be updated by the manufacturer of the software

concerned and the Client use a new software, Claranet will not be obliged to adapt the software provided to the Client by Claranet to the new Client software. Should the Client wish the software provided by Claranet to be adapted to the new Client software, Claranet will invoice the Client separately for the costs incurred by this. Claranet's fee structures applicable at the time of the adaptation shall apply. The regulation in Clause 4.8 remains unaffected.

3. Cooperation and Provision Obligations of the Client

- 3.1 The Client will support Claranet in its activities to a reasonable extent so that Claranet is able to provide its services in accordance with the contract. The Client will, in particular, provide Claranet with all information required for service provision.
- 3.2 Without undue delay, the Client will report to Claranet any change in its name, registered business address or billing address, its legal form and – in case of a SEPA-Business-to-Business-Direct-Debit authorisation – its bank information.
- 3.3 If agreed, the Client will provide Claranet with software licenses, services from public cloud providers, or other third-party services of the type, scope, and at the time required for the contractually agreed provision of service by Claranet.
- 3.4 Unless expressly agreed otherwise, the Client is responsible for ensuring the compatibility of its server systems, operating systems, and applications with the service from Claranet and must meet the (minimum) technical requirements outlined in the OF, SD or SC; The Client must take care of the setup and/or configuration of the required hardware and other Client facilities, such as in-house wiring.
- 3.5 The Client is obliged to keep its server systems, operating systems, and applications up to date and to take appropriate measures to protect them against misuse by third parties, unless Claranet has expressly undertaken a contractual obligation to the Client to perform such measures. In particular, these include anti-virus programmes and prompt installation of security patches.
- 3.6 The Client will comply with recognised data protection principles and in particular keep passwords assigned by Claranet secret, use such passwords properly, immediately change or take action to change such passwords if there is suspicion that an unauthorised third party may have knowledge of them.
- 3.7 The Client will allow Claranet to install software updates and support Claranet in doing this as required, in particular for the update of anti-virus programmes and the prompt installation of security patches. The Client will grant Claranet and persons authorised by Claranet the entry and access rights required to allocate and provide the services and to rectify faults, in particular to grant access at agreed times to devices provided and other equipment and rooms insofar as this is required for provision of the services.
- 3.8 The Client may not use the services by Claranet in a way that endangers the equipment of Claranet, the unrestricted maintenance of its services and performance capability (also vis-à-vis other clients) or public safety. The Client may not use the services offered by Claranet for abusive or illegal purposes. Abusive purposes are in particular dissemination, downloading or publishing data, making calls or sending e-mail messages that violate or could infringe rights of third parties or that serve to threaten or intimidate third parties. Additional abusive purposes are in particular data espionage or interception and the corresponding preparatory acts, the illegal use of peer-to-peer services, dissemination of unsolicited mass mailings, overloading services or the network or sections of services or the network and their access points in excess of the extent contractually agreed to be used or operated, denial-of-service attacks (DDoS), operating botnets, port scans, sending unwanted emails, mail bombing and crossposting, publishing and disseminating content that fosters racial hatred, elicits criminal acts, glorifies violence or makes it appear harmless, that has as its object the sexual abuse of children or is apt to cause severe moral endangerment to children or young people or have an adverse effect on their well-being, or is illegal for any other reason.
- 3.9 The Client will not use any devices, equipment, software or data that could result in changes to the physical or logical structure of the Claranet network or the terminal provided for use.
- 3.10 At the end of the contract, the Client is obliged to return hardware provided to it by Claranet including accessories within ten (10) working days in flawless condition including accessories to Claranet or to a logistics partner named by Claranet at its own expense, or to allow Claranet or a third party authorised by Claranet to uninstall and remove equipment provided by Claranet for fulfilment of the contractual relationship.

4. Payment Conditions / Default / Price Increase

- 4.1 The Client will pay Claranet the contractually agreed fees for the services covered by this contract. All fees are subject to the legally applicable value added tax.
- 4.2 Unless agreed otherwise, Claranet will invoice the Client for the services as follows:
 - a) Installation and provision fees will be invoiced upon completion of the installation or upon provision.
 - b) Fixed fees measured in units of time (e.g. fixed charges to be paid monthly, quarterly, semi-annually or annually) will be invoiced in advance at the start of the respective accounting period. This applies accordingly for one-off fixed charges.
 - c) Variable fees will be invoiced at the end of the respective accounting period. Insofar as advance payments are agreed for variable fees, Claranet will invoice for the advance payment at the start of the respective accounting period and will invoice the Client for the

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- difference between the advance payment made by the Client and the actual fee at the start of the accounting period following the advance payment.
- 4.3 Claranet is entitled to issue electronic invoices in a common format, such as in PDF format via email. Claranet is also entitled to issue the Client a joint invoice for all Claranet services, even if these are based on different contracts between Claranet and the Client.
- 4.4 All invoices are due immediately upon receipt by the Client without deductions. The invoice amount must be credited to the Claranet account specified on the invoice within ten (10) calendar days of the invoice date. If the Client has set up a SEPA-Business-to-Business-Direct-Debit instruction, Claranet shall collect the invoice amount from the agreed account using the direct debit scheme no sooner than five (5) bank working days after the invoice date and advanced notice.
- 4.5 If an amount owing has not been received by Claranet by the date specified in Clause 4.4, the Client's payment is late. When a payment is late, Claranet is entitled to collect interest on that sum in the amount of eight (8) percentage points above the base rate of the European Central Bank. The assertion of further claims for late payment is not excluded. If it is not possible to collect the direct debit so that the amount is claimed back from Claranet, and if the Client is responsible for this, the Client agrees to pay compensation for damages incurred by Claranet but at least in the amount of €15. The Client is free to demonstrate that Claranet did not incur any or lesser damage.
- 4.6 If the Client is late with the payment due for two (2) months or with payments at least equal to the amounts owed for two (2) months of fixed fees measured in units of time, Claranet may terminate the contractual relationship without observing a notice period or withhold the contractually required service and may make continuation of the contractual service dependent on prepayment of all additional compensation agreed upon in the future for the duration of the contract.
- 4.7 In the event bankruptcy proceedings are opened against the Client's assets, Claranet is entitled to make its claim payable immediately. Then Claranet is also entitled to perform services still outstanding only in return for advance payment or against issuance of sureties.
- 4.8 Claranet is entitled to increase agreed fees according to the following stipulations:
- Annual adjustment to the rate of inflation in Germany. This is determined by the producer price index for services, service type: IT services, (2015=100) published by the German Federal Statistical Office.
 - Adjustment to cost increases due to changes in legislation (e.g. altered or additional taxes or levies), significant decisions of responsible authorities or decisions by courts that are related directly or indirectly to the service Claranet provides to the Client. Claranet shall inform the Client in writing immediately of any such changes and shall explain why the adjustment of the fees is necessary, including a demonstration of the change in the underlying contracts which form the basis of the adjustment.
 - Half-yearly adjustment due to significantly altered market conditions with effect from the start of the following half year of the term of the respective contract. Significantly altered market conditions are considerable changes to procurement costs (e.g. (software) licences from third parties/suppliers, services from public cloud providers, costs for maintenance by third parties, respective material costs, wages and ancillary wage costs including subcontracting and temporary employment costs, services from third parties/suppliers, official wage adjustments or in the event of an adjustment to the pay scales of collecting societies) as well as other unforeseeable changes in the market (e.g. scarcity of natural resources) over which Claranet has no influence but which impact the fulfilment of Claranet's service obligation and the costs thereof. The fees are adjusted in accordance with the alterations to the market conditions. Alterations will not be made for other reasons.
The fees specified in Clause 4.8 b) and c) of this agreement may only be increased to the extent of the cost increase for Claranet and in accordance with the proportion of this cost element with respect to the agreed fee. The fee increase is only permitted if the cost increase is due to changes which occurred after conclusion of the contract and were not caused by Claranet.
The Client will be informed of the fee adjustment in writing at least two (2) months before it comes into effect. If the Client does not object to the modified prices within one (1) month after notification of the adjustment is received in writing, the changes shall take effect as described in the notification. If the Client objects, Claranet is entitled to extraordinary termination of the individual contract with respect to the service concerned or of the entire contract with a notice period of three (3) months from the end of the current month. Notice of termination is to be given in writing by Claranet within one (1) month from receipt of the written notice of objection. Should Claranet fail to terminate with sufficient notice in writing, the unchanged fees will continue to apply. When notifying the Client of the adjusted fees, Claranet will draw the Client's particular attention to the right of objection and the consequences of failing to object or failing to object on time.
- 4.9 The Client will bear the costs incurred for payment transactions, in particular any bank fees for overseas payments.
- 5. Objections to invoices**
The Client must carefully verify invoices from Claranet. The Client must present objections to Claranet in writing regarding the amount of the invoice no later than thirty (30) calendar days after receipt of the invoice. This shall not affect the due date. In the absence of timely objections, invoices shall be considered as approved. Claranet shall make special reference in each invoice to the objection period and the legal results of failing to respond within the objection period. In the case of justified objections raised on time, Claranet will issue a corrected invoice or reversal invoice and will reimburse the Client for any overpayment. Insofar as Claranet provides telecommunication services pursuant to the German Telecommunications Act (TKG), the objection period for such telecommunications services shall be eight (8) weeks from receipt of the invoice; Section 45i TKG remains unaffected.
- 6. Performance Defects**
- 6.1 Claranet provides its services in accordance with the agreements made, applying the due care of a prudent and conscientious businessman in accordance with the generally accepted rules of technology.
- 6.2 The Client will report any performance defects to Claranet Business Support immediately and no later than one (1) working day after becoming aware of them by telephone, email or fax, specifying the Client order ID.
- 6.3 Claranet shall begin to analyse a reported performance defect and to investigate the cause of the performance defect within the agreed reaction times and, where applicable, shall eliminate the performance defect within a reasonable amount of time. In the case of hardware provided, performance defects shall be eliminated at Claranet's discretion by repair or provision of replacement hardware.
- 6.4 If the performance defect is not eliminated within a reasonable amount of time, Claranet shall provide an auxiliary or workaround solution. Providing such a solution does not release Claranet from its obligation to eliminate the performance defect once and for all within a reasonable additional amount of time.
- 6.5 If it is not possible to eliminate the performance defect or if this fails even after the Client has set a reasonable additional period, the Client shall be entitled to reduce the payment owed or, where legal prerequisites are met, to termination.
- 6.6 Should it emerge that a defect reported by the Client is not a performance defect (such as if it was caused by the Client or a third party commissioned by the Client, for example through operator error or breach of a duty to cooperate by the Client), the internal expenses incurred by Claranet for processing this report must be reimbursed at the hourly rates normally charged by Claranet for such services. This does not apply if the Client was not responsible for reporting the defect.
- 6.7 Claims for damages as a result of performance defects are governed by Clause 7.
- 7. Liability**
- 7.1 In accordance with the legal provisions, Claranet bears unlimited liability for damages in the event of:
- fraudulent concealment of defects;
 - intentional or grossly negligent breaches of duty;
 - damages from injury to life, body or health; and
 - damages caused by delay based on the costs of legal prosecution within the meaning of Section 288 (6) of the German Civil Code.
- 7.2 Outside of the cases governed by Clause 7.1, Claranet shall also be liable for damages in the event of a breach of significant contractual obligations for which it is responsible.
Significant contractual obligations in this sense are obligations arising from the framework contract and the individual contracts concluded on its basis, the fulfilment of which is a prerequisite for the proper performance of the contract in question or the non-fulfilment of which makes the proper performance of the contract in question impossible and the fulfilment of which the Client may regularly rely on.
In such cases, however, liability shall be limited to compensation for the damage typically foreseeable at the time of conclusion of the relevant contract, but limited to a maximum amount of EUR 100,000.00 for each individual case and a total of EUR 500,000.00 for all damages in connection with the relevant contract per year.
- 7.3 Claranet's liability for data loss shall be limited to the typical costs of recovery which would have been incurred if regular backup copies had been made in accordance with the respective risk. Furthermore, Claranet shall in no case be liable for lost profits and other indirect damages.
- 7.4 All further liability for damages on the part of Claranet beyond Clauses 7.1 to 7.3 – regardless of the legal argument – is excluded.
- 7.5 Any liability for damages on the part of Claranet in accordance with Section 536a of the German Civil Code (BGB) for initial defects in performance which is independent of any obligation to represent is excluded. Insofar as it is applicable for the agreed services, Section 44a of the German Telecommunications Act (TKG) shall be unaffected by Clauses 7.1 to 7.4. Clauses 7.1 to 7.4 do not apply to liability in accordance with the German Product Liability Act. Notwithstanding Clauses 7.1 to 7.4, in the event of an agreed fault-based obligation to indemnify (e.g. guarantee), the relevant agreements shall apply.
- 7.6 The provisions in Clauses 7.1 to 7.5 shall apply mutatis mutandis in favour of the legal representatives and vicarious agents of Claranet if they are directly liable to the Client.
- 7.7 Claranet shall not be liable for any damage caused by the use of the Client's own software or by the use for improper or illegal purposes within the meaning of Clause 3.8. Claranet shall provide no support for the elimination of such damages caused by the Client's own software.

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- 7.8 The Client shall indemnify Claranet against all obligations arising from claims by third parties due to infringements of rights for which the Client is responsible, including from use for improper or illegal purposes.
- 8. Force Majeure**
- 8.1 The contracting parties shall not be liable for loss, damage, non-performance or delayed performance of all or any of their contractual obligations due to fire, flood, earthquake, strike (of their own or other employees), armed or terrorist conflict, embargo, blockades, legal prohibitions, riots or other circumstances beyond the control of the relevant non-performing party which prevent or render impossible the performance of the relevant obligation (**force majeure**). In such cases the affected party shall notify the other party immediately upon occurrence of the force majeure and shall confirm this notification in writing within five (5) working days together with a description of the causes. Sentence 1 does not apply insofar as the party concerned had to take precautions to prevent the occurrence of the circumstance in question or to prevent or mitigate its adverse effects in accordance with the agreements made and culpably breaches this obligation.
- 8.2 As long as such an event of force majeure lasts, both parties are released from their mutual obligations to provide services. Both parties shall work together to eliminate the status of service interruption caused by force majeure as quickly as possible, at least by a temporary solution. If a temporary solution is created, the Client shall pay to Claranet the price agreed upon or otherwise the typical local fee for the temporary solution. When the force majeure is no longer present, Claranet shall provide the original services again within a reasonable amount of time. From this point on the general provisions of the contract shall apply again.
- 8.3 If fulfillment of an obligation of the parties is delayed for a period of at least thirty (30) calendar days or prevented due to force majeure, the other party shall be entitled to extraordinary termination of the contract without notice.
- 9. Data Protection**
- 9.1 The contracting parties shall observe the applicable data protection provisions within their respective area of responsibility. Claranet agrees to observe the basic principles of proper data processing and to monitor compliance therewith. The Client is entitled
- to obtain information about its personal data saved by Claranet at any time;
 - to rectification of incorrect data or to have incomplete personal data completed;
 - to the erasure of stored data, insofar as no legal or contractual retention periods or other legal obligations or rights for further storage must be complied with;
 - to the restriction of the processing of data; and
 - to request the transfer of data.
- Furthermore, the Client has the right to lodge a complaint with the supervisory authority and the right to object at any time, for reasons arising from its particular situation, to the processing of personal data relating to the Client that is based on Art. 6(1) (e) or (f) GDPR; this also applies to profiling based on these provisions.
- 9.2 Within the scope of its business activities, Claranet collects, processes and uses the Client's data required for the conclusion, performance or termination of a contract with the Client. These data usually comprise the Client's contact details (e.g. company name, first and last name of the contact person, address, e-mail address, fax number and payment data) as well as the Client's inventory and communications data (Art. 96 paragraph 1 of the German Telecommunications Act) and usage data (Art. 15 of the German Telemedia Act). The legal basis for this is Art. 6(1) (b) GDPR. We store the data collected for fulfillment of the contract until the expiry of any statutory or potential contractual warranty and guarantee rights. Upon expiry of this period, we retain information concerning the contractual relationship required by commercial and tax law for the applicable periods specified by law. During this period (regularly ten years from the conclusion of the contract), the data will be subject to processing again solely in the event of an audit by the tax authorities.
- 9.3 Claranet evaluates the traffic data stored for the establishment and maintenance of telecommunications and for billing purposes (number of secured gigabytes for backups, amount of storage quota used, etc.) for its own purposes and also uses this data to design services to meet requirements or to provide services with additional benefits. The processing of personal data in the context of the foregoing use is based on Art. 6(1) (f) GDPR. Claranet's interest in optimizing services is deemed to be legitimate within the meaning of the aforementioned provision.
- 9.4 Claranet processes the Client's personal data for advertising purposes. The GDPR provides that such data processing on the basis of Art. 6(1) (f) is fundamentally plausible and comprises a legitimate interest. The retention period for data used for advertising purposes is not based on rigid principles and is rather determined on the basis of whether continued retention is necessary for purposes of promotional contacts. In light of the existing contractual relationship, Claranet processes the Client's postal contact details outside of the scope of any specific consent in order to send it information about new products and services by this method. **The Client may object to the processing of data for the aforementioned purpose at any time, and free of charge, with future effect. To do so, it is sufficient to send an e-mail to widerruf@claranet.de or a letter by post to our address 'Claranet GmbH, Hanauer Landstraße 196, 60314 Frankfurt am Main', keyword 'Data Protection'.**
- 9.5 Claranet processes the Client's email address in order to send it direct advertising about Claranet's own similar goods or services, e.g. via the newsletter, outside of the scope of any specific consent. **The Client may revoke this use of its email address for this purpose at any time with future effect. Such revocation can be stated by sending an email to widerruf@claranet.de or by using the 'Cancel newsletter' link in every email. There are no other costs for this revocation other than the transmission costs as per the fee schedule.** If the Client submits a revocation, the contact address concerned will be blocked for further promotional data processing.
- 9.6 If personal data is collected, processed or used by Claranet at the Client's request, Claranet is acting as an agent as defined by Art. 28 GDPR (processor). In this case the specific subject of the commissioned data processing and the respective rights and duties of the parties are regulated by the provisions of the agreed written individual agreements regarding commissioned data processing.
- 9.7 In the case of a delay in payment, Claranet will send the necessary Client data to the company engaged to collect payment provided all other applicable legal requirements have been met. The legal basis for this is Art. 6(1) (b) and Art. 6(1) (f) GDPR. The assertion of a contractual claim is deemed to be a legitimate interest within the meaning of the second provision referred to above. The Client shall be informed in writing that a collection agency or third party has been retained to collect the debt.
- 10. Creditworthiness Check**
- 10.1 Claranet is entitled to transmit the Client's inventory data (e.g. name, address, legal form or other data required to establish a contract) to credit agencies cooperating with Claranet for verification of the Client's creditworthiness and to receive information for this purpose. Claranet is furthermore entitled to use a scoring process as part of the creditworthiness check. Scoring makes use of mathematical calculations to determine the probability that the Client will satisfy its payment obligations in accordance with the contract. These scores thereby aid Claranet, for example in assessing creditworthiness, and represent a component of risk management. Calculations are made on the basis of recognised and proven mathematical / statistical processes and are performed on the basis of data provided to us by the Client. Processing is performed on the basis of Art. 6(1) (f) GDPR in light of Claranet's legitimate interest in taking precautions against payment defaults given that it performs in advance. **The Client has the right to object to this processing of its personal data on the basis of Art. 6(1) (f) GDPR at any time with future effect by sending notice to Claranet.** However, the provision of such data is necessary to conclude a contract. The failure to provide such data means that a contract cannot be concluded with the Client.
- 10.2 The Client may request information from Claranet at any time regarding the names and addresses given to credit reporting agencies as part of the creditworthiness check. The Client can request the information on file for it from the credit reporting agencies concerned.
- 11. Term of the Contract / Termination**
- 11.1 Unless agreed otherwise, the contract has a minimum term of 12 months and extends automatically by a further 12 months unless it is terminated at least three (3) months before the end of the respective contractual term.
- 11.2 The term of the contract begins on the day the delivery notification is sent by Claranet or the Ready-for-Service date unless otherwise individually agreed. In the absence of a delivery notification from Claranet the contract term shall begin at the latest when Claranet has made the contractual service available. This is not dependant on actual use by the Client of the services made available.
- 11.3 To terminate the contract, notice must be given in writing.
- 11.4 The right of both contractual parties to extraordinary termination for good cause will remain unaffected. An important reason that grants a right to extraordinary termination of the contract is present especially if one contractual party infringes a fundamental contractual duty. An important reason that entitles Claranet to extraordinary termination is present especially if:
- a) the Client uses the services from Claranet for illegal or abusive purposes in breach of Clause 3.8;
 - b) the Client breaches its obligations pursuant to Clause 3.1, 3.7 or 3.8;
 - c) the Client exceeds the limits of the rights of use granted to it in accordance with Clause 14 or Clause 2.4;
 - d) Claranet cannot continue to permanently provide the services under this contract or can only do so at considerable additional cost due to the discontinuation or significant alteration of third party advance provisions on which Claranet is dependent in order to fulfil their performance obligations under this contract and Claranet has no influence on the provision of these. In this case, Claranet shall inform the Client immediately of the unavailability of the service and reimburse the Client for any advance payments it has made for the services in question.
- 11.5 If the contractual relationship is terminated prematurely through extraordinary termination and if the termination is based on a breach of contract by the Client for which the Client is responsible, the Client agrees to compensate Claranet for resulting damages. The damages to be compensated by the Client are a minimum of seventy-five (75) percent of the contractual remuneration up to the point at which a proper termination ended the contractual relationship. The entire amount of remuneration to be paid is due as soon as notice of termination is received. The Client is free to demonstrate

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that Claranet suffered less damage or no damage through premature termination. Claranet is free to demonstrate that higher damages were incurred.

12. Offsetting and Retention Rights / Transfer of Contract / Contractual Lien

- 12.1 The Client may settle claims against Claranet only with undoubted or legally binding claims.
- 12.2 The Client shall only be entitled to assert a right of retention with undisputed or legally established counterclaims that are based on the same contractual relationship as the claim against which the right of retention is to be asserted.
- 12.3 Claranet shall hold a contractual lien on contractual objects held by Claranet on the basis of this contract in relation to contractual receivables. The contractual lien may also be claimed in relation to receivables from services previously rendered insofar as they are associated with the objects of the contract. The contractual lien only applies to other claims from the business relationship insofar as these are uncontested and legally binding.

13. Acceptance

- 13.1 Work performances shall be accepted in accordance with the following provisions.
- 13.2 Claranet shall inform the Client of readiness for acceptance when the work is complete. Delivery notifications by Claranet shall be deemed to be notices of readiness for acceptance.
- 13.3 Within five (5) working days after the notification of readiness for acceptance, the Client shall check the compliance of the work with the agreed quality. The Client shall notify Claranet of any defects in writing within a further five (5) working days.
- 13.4 If no other provisions are made in the contract, the following error classes are considered to be agreed upon:
- a) Error class one (1) – defects which prevent acceptance: the defect is such that the service or a significant part thereof cannot be used economically by the Client. If an error of this type is present, the contractual service obligations of Claranet have not been provided, so that the Client can refuse acceptance.
- b) Error class two (2) – defects which do not prevent acceptance: a defect of this type is present if the service deviates from performance features stipulated in the respective individual contract, but the deviation does not result in use of the service that prevents reasonable economical usage.
Unless a material contractual obligation is involved in the individual case, a lack of documentation and the SLAs only constitutes a defect according to error class two (2).
- 13.5 Acceptance shall be deemed not to have taken place if there are defects of defect class one (1) or a significant number of defects of defect class two (2) and the Client notifies Claranet of these in due form and time. The number of defects of error class two (2) is considered significant only if the number of defects is such that the service cannot be used economically by the Client. Claranet shall remedy the notified defects without delay and again notify the Client of readiness for acceptance. The Client shall again inspect the function where this is necessary to determine whether the defect has been eliminated. The provisions of Clauses 13.2 to 13.4 apply accordingly.
- 13.6 If the Client commences productive use of the service before the test pursuant to Clause 13.3 sentence 1 or if the Client indicates (i) no defects or (ii) neither defects according to defect class one (1) nor a significant number of defects of defect class two (2) in the agreed form and within the agreed period pursuant to Clause 13.3 sentence 2, acceptance shall be deemed to have taken place. The rectification of any notified defects by Claranet shall be determined in accordance with Clause 6.

14. Granting of Rights

- 14.1 'Intellectual property' shall mean all current and future trademark rights, copyrights and related rights (in particular computer programs within the meaning of Sections 69a et seq. of the German Copyright Act), database rights, design rights and patent rights, invention rights, technical and organisational improvement proposals, registered designs and comparable property rights as well as trade secrets and know-how.
- 14.2 All current and future intellectual property of the contracting parties or their licensors remains – unless otherwise agreed – the sole property of the respective contracting party or its licensors. Neither party shall grant to the other party any rights of use or exploitation of its intellectual property or that of its licensors, unless otherwise agreed.
- 14.3 In particular, all work results created by Claranet within the scope of the cooperation of the contracting parties (e.g. codes, scripts and other software developed by Claranet according to Client requirements) and the intellectual property contained therein shall belong to Claranet. Unless otherwise agreed, the Client acquires rights of use to these work results and the intellectual property contained therein only in accordance with the following provisions.
- 14.4 The scope of the Client's right to use the software of third party licensors provided by Claranet and the intellectual property contained therein shall be determined in accordance with the respective valid special licence conditions of the relevant licensor. Claranet will indicate the respective valid special licence conditions of the relevant licensor in the order documents (OF, SD or SC or SLA) and make them available to the Client on request.
- 14.5 Unless special licence provisions apply in accordance with Clause 14.4, Claranet grants the Client the non-exclusive right, limited to the term of the relevant contract, to use its own software and the intellectual property contained therein, insofar as this is necessary for the contractual use of its services. The Client is permitted to make this software and the intellectual

property contained therein available to companies affiliated with it within the meaning of Sections 15 et seq. of the German Stock Corporation Act (AktG) for use to the same extent. Otherwise, the Client is not entitled to transfer – against payment or free of charge – its right of use to third parties or to grant third parties corresponding rights of use (sub-licences).

- 14.6 The provisions of Clauses 14.4 and 14.5 apply accordingly to any software documentation provided. Claranet is entitled to transfer the documentation in electronic form and in English.
- 14.7 The transfer or disclosure of the source code of the software provided is not owed. Claranet is not obliged to further develop any software transferred.
- 14.8 Claranet hereby grants the Client the non-exclusive right, limited to the term of the relevant contract, to use any intellectual property it may have provided (with the exception of intellectual property mentioned in Clauses 14.4, 14.5 and 14.6), insofar as this is necessary for the contractual use of its services. The Client is permitted to make this intellectual property available to companies affiliated with it within the meaning of Sections 15 et seq. of the German Stock Corporation Act (AktG) for use to the same extent. Otherwise, the Client is not entitled to transfer – against payment or free of charge – its right of use to third parties or to grant third parties corresponding rights of use (sub-licences).
- 14.9 The Client hereby grants Claranet the non-exclusive right to use any intellectual property it may provide and to have it used by third parties employed by Claranet in the context of the performance of the contract, insofar as this is necessary for the performance of the obligations or the assertion of the claims of Claranet from the relevant contract.
- 14.10 In the event of the permissible (onward) transfer of software/documentation and the intellectual property or other intellectual property contained therein to third parties, the Client shall ensure compliance with the aforementioned limits of its right of use in a suitable manner by way of contract.

15. Claims in the Event of Defects of Title / Third-Party Property Rights

- 15.1 The services of Claranet are to be provided free of third-party rights that conflict with the contractual use.
- 15.2 If the rights of third parties impair the contractual use of the services of Claranet, Claranet will, at its discretion, either modify the contractual services in such a way that they no longer infringe the rights of third parties, but nevertheless comply with the contractual provisions, or obtain the authority that they can be used without restriction and without additional costs for the Client in accordance with the contract. If Claranet is unable to eliminate the negative effects due to rights of third parties, the Client is entitled to reduce the fee or, if the legal requirements are met, to terminate the contract.
- 15.3 If a third party claims the infringement of its rights through the contractual use of the services of Claranet by the Client, the Client will inform Claranet of this immediately in writing. Without the written consent of Claranet, the Client shall neither acknowledge the claim nor settle with the third party on the claim. Upon request by Claranet, the Client shall allow Claranet to take the lead in the defence against the claim to the extent legally possible. The Client shall make all necessary declarations and take all necessary actions and agrees to provide assistance and support Claranet to the required extent in the course of the legal defence. Claranet indemnifies the Client against claims of third parties for which it is responsible as a result of the infringement of the Client's rights through the contractual use of the services of Claranet and compensates the Client for the resulting damages. The claim for indemnity and compensation is subject to the condition that the Client fulfils its obligations under sentences 1 to 4 of this Clause 15.3 and is subject to the exclusions and limitations of liability in Clause 7.
- 15.4 Claims for damages as a result of defects of title are governed by Clause 7.

16. Blockage

- 16.1 Claranet is entitled to (partially or completely) block its services for the Client, insofar as
- a) there is a threat to the facilities of Claranet or the unrestricted maintenance of its services and performance (also vis-à-vis other clients) (e.g. through DDoS or other hacker attacks) or to public safety;
- b) the Client exceeds the limits of the rights of use granted to it in accordance with Clause 14;
- c) the Client uses the services of Claranet abusively or illegally in breach of Clause 3.8; or
- d) there is a legal or regulatory obligation to do so or there is a court or official order to do so.
- 16.2 Claranet is furthermore entitled to (partially or completely) block its services for the Client after serving notice and observing a waiting period of two (2) weeks, if
- a) a chargeback occurs when receivables are collected by Claranet, unless the Client is not responsible for the chargeback;
- b) the Client violates Clause 3.2 and this hereby endangers a proper invoice settlement; or
- c) the Client is in default of payment according to Clause 4.5 to an amount of at least €75.
- The sending of a payment request (reminder) is considered as an announcement for blockage. Statutory rights of retention or rights to refuse performance on the part of Claranet are not restricted by this.
- 16.3 The blockage within the meaning of Clauses 16.1 and 16.2 remains in place only for the duration of the event which gave rise to the blockage.
- 16.4 Claranet will notify the Client of the blockage and the reasons for it with a reasonable period of advance notice within the scope of what is possible and reasonable. Otherwise, in particular where there is a risk of delay, the Client will be informed immediately of the blockage and the reasons for it.

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- 16.5 Notice of a blockage in accordance with the preceding paragraphs can be sent to the email address of the administrative contact named by the Client or another email address named by the Client. Claranet is free to send a written notification instead.
- 16.6 The Client shall remain obliged to pay the contractually agreed charges even in the event of a blockage pursuant to Clauses 16.1 or 16.2, provided that the cause of the blockage is within the Client's sphere of risk or is attributable to the Client. For the avoidance of doubt: Availability commitments for services affected by a blockage are suspended during a blockage; Loss of services as a result of a blockage shall not be taken into account within the framework of agreed availability commitments.
- 17. Confidentiality**
- 17.1 The contracting parties will treat the confidential information made available to them by the respective other contracting party within the scope of the contract as confidential.
- 17.2 **'Confidential information'** means any information provided by or at the instigation of one contracting party to the other contracting party in connection with the negotiation, conclusion or cooperation of the contracting parties under this contract in written, verbal, visual or other form and which is clearly marked 'confidential', 'vertraulich' or comparable and / or is classified as confidential by its nature and protection, including know-how. In case of doubt, the receiving party shall treat all information disclosed by the disclosing party as confidential information.
- 17.3 Confidential information does not mean information that:
- is publicly known or becomes publicly known without breaching the confidentiality obligations of the receiving party;
 - was already in the possession of the receiving party at the time of disclosure;
 - is lawfully received by the receiving party from a third party which, to the knowledge of the receiving party, may be disclosed by the third party to others without breaching a confidentiality obligation to the disclosing party; or
 - was developed independently by the receiving party without using the confidential information disclosed to it within the scope of this framework agreement or the respective individual agreement.
- The receiving party shall be responsible for providing evidence of the presence of the above exceptions.
- 17.4 Unless expressly agreed otherwise, the receiving party may not disclose the confidential information to a third party either directly or indirectly without the express prior written consent of the disclosing party. The receiving party may use the confidential information solely for the fulfilment of its contractual obligations and for no other purpose. The above sentence applies in particular to reverse engineering, insofar as this is not permitted within the meaning of Section 3 (1), no. 2, letter a) of the Business Secrets Act (GeschGehG). The receiving party shall treat the confidential information as confidential, exercising the same degree of care as the receiving party exercises to protect its own confidential information, but in no event less than that degree of care reasonably required to ensure a reasonably high level of protection of such information in order to keep it confidential.
- 17.5 Notwithstanding the foregoing obligations, the receiving party may disclose confidential information to the extent strictly necessary to comply with the requirements of any governmental authority or relevant law or regulation. The receiving party shall inform the disclosing party of such requirements and the intention to disclose in order to provide the disclosing party with a reasonable opportunity to obtain action against such disclosure.
- 18. Export Controls / Sanctions Screenings**
- 18.1 With regard to the contractual services from Claranet, the Client shall observe all export control provisions that apply to it. Insofar as Claranet is obliged to do so, Claranet will check information on the Client against sanctions lists; the Client will agree to this. Claranet will provide the Client with more information on sanctions list checks to be carried out by Claranet upon request. Where necessary, the Client will create the legal data protection preconditions required for the comparison, in particular obtaining any consents from the persons concerned.
- 18.2 Insofar as and as long as Claranet is unable to fulfil the contractual services to the Client due to applicable export control or sanction regulations, Claranet is released from its service obligation. If the Client is solely or predominantly responsible for the impediment to service, Claranet retains its claim to consideration for the period of release from its service obligation. In this case, the Client's claims for termination, withdrawal and damages are excluded. If the impediment to service persists for a period of four weeks, Claranet may terminate the contract extraordinarily in whole or with regard to the affected service. Claims for damages by Claranet against the Client as a result of the extraordinary termination remain unaffected.
- 19. Amendments to the T&Cs**
- If Claranet intends to make amendments to the general terms and conditions, Claranet will publish these on its homepage (www.claranet.de) and inform the Client of the amendments by email or by post at least 6 weeks before the amendments take effect. The amendments will be valid if Claranet does not receive any objection from the Client within 6 weeks of the date of dispatch from Claranet. If the Client does object Claranet may extraordinarily terminate the contract with a notice period of 4 weeks within 4 weeks of receipt of the objection.
- 20. Choice of Law / Place of Jurisdiction / Formal Requirements / Severability Clause / Miscellaneous**
- 20.1 These T&Cs and the contracts concluded on their basis are subject to German substantive law to the exclusion of international private law. For the avoidance of doubt: The United Nations Convention on Contracts for the International Sale of Goods shall not apply.
- 20.2 The place of performance and exclusive place of jurisdiction for all claims arising from or in connection with these T&Cs or the contracts concluded on the basis of these T&Cs is Frankfurt am Main. Mandatory legal regulations regarding exclusive places of jurisdiction remain unaffected by this agreement on the place of jurisdiction.
- 20.3 Amendments, supplements or cancellation of these T&Cs or contracts concluded on their basis must be made in writing to be effective. This also applies to a waiver of this requirement of the written form. Other explanations and notifications can be made in text form, unless expressly agreed otherwise.
- Within the meaning of these T&Cs: (i) written form means the written form within the meaning of Section 126 of the German Civil Code; (ii) electronic form means the electronic form within the meaning of Section 126a of the German Civil Code; AND (ii) text form means the text form within the meaning of Section 126b of the German Civil Code. The transmission of the signed declaration by telecommunication shall be sufficient to comply with the contractually agreed written form; electronic form within the meaning of Section 126a of the German Civil Code or text form within the meaning of Section 126b of the German Civil Code are not otherwise sufficient. Section 127 (2) sentence 2 and (3) sentence 2 of the German Civil Code do not apply.
- 20.4 The complete or partial invalidity of individual provisions of these T&Cs or contracts concluded on their basis shall not affect the validity of the remaining provisions. The contracting parties shall replace invalid provisions with valid provisions which most closely approximate the economic purpose pursued by the invalid provision. This shall apply accordingly in the event of any gaps in these T&Cs or in the contracts concluded on their basis.

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II. ADDITIONAL PROVISIONS REGARDING ACCESS SERVICES

Insofar as Claranet provides the Client with access services and / or the hardware required for this (e.g. router), these supplementary terms and conditions apply in addition to this.

1. Scope of services

- 1.1 The data transfer rates stated for download and upload ('bandwidth') in the order documents (OF, SD or SC and SLA) are the maximum possible bandwidths at the network access level. The bandwidth actually achieved depends on several factors (e.g. Client applications, size of the Ethernet frame, in-house wiring) over which Claranet has no influence and which therefore cannot be determined for technical reasons until the respective connection is put into operation. Should the Client notice a significant, continuous or regularly recurring deviation between the actual bandwidth and the bandwidth justifiably expected by the Client after commencement of service, the Client may extraordinarily terminate the order for the connection of the affected location in writing; this right to termination does not apply to other locations of the Client contained in the contract which have been provided with sufficient bandwidth. The right of both contractual parties to extraordinary termination for good cause will remain unaffected. In all other respects, Section I Clause 6 of the T&Cs shall apply accordingly.
- 1.2 An access product can only be installed if a corresponding number of copper twin wires are present and the carrier has confirmed availability. If a DSL service is subject to an increase in disruptive factors this can in individual cases mean that it is impossible to maintain the service. This may in particular be released by a sub-supplier switching the connection of a third party from an adjacent pair. Claranet has no influence over this.
- 1.3 Claranet shall assign IP addresses as it sees fit. The Client has no claim to a particular IP address. Claranet is entitled to alter previously assigned static IP addresses provided there is a technical reason for doing so. The Client shall be immediately informed of this.

2. Supplement to Contract Term and Termination / Discounts

The following shall apply in addition to the contract term and termination regulations specified in Section I Clause 11:

- 2.1 Unless agreed otherwise in the order documents (OF, SD or SC and SLA), the following general contract term regulation applies (in deviation from Section I Clause 11.1) for access services:
An individual contract terminated with effect from the end of an extension period does not end until the end of the month, irrespective of when the contract began.
- 2.2 Claranet can terminate an access services contract at any time for good cause, including for individual locations (partial termination). An important reason that entitles Claranet to such extraordinary termination is present especially if:
 - a) termination of a subscriber connection line is made effective by Telekom;
 - b) operation of fixed telecommunication connections and/or providing telecommunication services causes faults in the public telecommunication network of Claranet or of Claranet's carrier suppliers;
 - c) operation of fixed telecommunication connections and/or providing telecommunication services interferes with providing other telecommunication services on subscriber connection lines of Telekom;
 - d) Telekom or another carrier supplier requires the removal of access equipment from the main distributor location or some other impossible situation for which Claranet is not responsible arises. These include in particular, but not exclusively, unsubstitutable loss of availability of Internet access or unsubstitutable loss of a supplier of advance provisions.

3. Relocation

- 3.1 Cable or earth-bound access services are not available everywhere and the line provided is tied to a certain place (installation location on the order form). The contract concluded applies for the agreed contract term at the agreed installation location. Relocation to another location at which access services cannot be provided in accordance with the contract is at the sole discretion of the Client and does not entitle the Client to extraordinarily terminate the individual contract.
- 3.2 In the event of relocation to an address at which the agreed access product is available and can be provided by Claranet, Claranet shall make the Client a separate offer for the relocation or the continued provision of the access services at the new address upon request.
- 3.3 The relocation request must be conveyed to Claranet in writing a minimum of three (3) months prior to the required relocation date in order to provide the connection at the new location on time.
- 3.4 The price of the old line is also to be paid by the Client until the new line is definitively ready for use.

4. Supplementary Obligations of the Client to Provide and Cooperate

In addition to Section I Clause 3, the Client has the following additional obligations with regard to access services from Claranet:

- 4.1 The Client will grant Claranet or people commissioned by Claranet access to its (business) premises and other facilities as well as to any hardware

provided by Claranet located therein during usual business hours, insofar as this is necessary for the provision of the services. Claranet will provide reasonable notice of such visits where possible.

- 4.2 The technology on which the access services are based may change from time to time and this will have no impact on the access services from Claranet or the compensation to be paid for these services by the Client. Insofar as the conversion to a different technology requires reasonable cooperation by the Client, the Client will provide Claranet with reasonable support during the conversion and agrees to the use of different technology. This only applies insofar as the conversion is free of charge for the Client.
- 4.3 The Client must handle hardware provided by Claranet with care. Hardware provided by Claranet does not become the property of the Client. The Client will not use any devices, equipment, software or data that could result in changes to the physical or logical structure of the Claranet network or the hardware provided by Claranet.
- 4.4 Unless agreed otherwise, the Client shall be responsible for the set-up and / or configuration of the hardware and its other facilities (for example in-house wiring) required for use of the access services.
- 4.5 Claranet draws the Client's attention to the following: A Building / Property Owner's Declaration ('BOD') may be required to connect the building / property to the telecommunications network (for example installation of a cable). If a BOD is required for order processing, Claranet will inform the Client accordingly. The BOD must be provided by the Client within a period of ten (10) working days after the order is placed, but no later than when requested in writing by Claranet.
- 4.6 The availability of the access services promised by Claranet is subject to the condition that the Client uses the hardware provided by Claranet, in particular the router provided by Claranet. The Client's attention is drawn to the fact that Claranet is not able to access a different router used by the Client during support services (troubleshooting) and support times could therefore be increased. Insofar as hardware used by the Client without the consent of Claranet causes hardware failures, malfunctions or errors, this does not constitute a defect in performance and Section I Clause 6.6 applies accordingly.

5. Additional Obligations upon Termination of the Contract

- 5.1 At the end of the contract, the Client is obliged to return hardware provided by Claranet within ten (10) working days in flawless condition including accessories to Claranet or to a logistics partner named by Claranet at its own expense, and / or to allow Claranet or persons authorized by Claranet to uninstall and remove hardware provided by Claranet for fulfilment of the contractual relationship at its own expense.
- 5.2 If the Client does not comply with the above duties Claranet may assert a claim for damages arising, which can include the costs for procuring comparable replacement equipment or hardware and accessories.

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III. ADDITIONAL PROVISIONS REGARDING DIRECTIONAL RADIO (WLL) SERVICES

Insofar as Claranet provides the Client with directional radio (WLL) services and / or the hardware required for this (e.g. IDU, ODU, router), these additional provisions apply in addition to this.

1. Scope of Services

- 1.1 A precondition for the connection via directional radio is a successful LOS (Line of Sight) check. If the LOS check is positive, the directional radio antenna will be properly installed by technology partners of Claranet at a suitable place. Written consent of the building owner or a building owner's declaration (**BOD**) is required for installation of the directional radio antenna. The BOD must be provided by the Client within a period of ten (10) working days after the order is placed, but no later than when requested in writing by Claranet. The Client shall receive from Claranet, for the duration of the term of the contract, a directional radio system consisting of an Indoor Unit ('IDU') and an Outdoor Unit ('ODU') with antenna. The IDU together with the router forms the network transfer to the Client. The installation of the ODU with antenna and 100 metres of antenna supply cable including laying is included in the connection price. Additional metres of cable and the charge for laying them shall be invoiced separately. The antenna installation is prepared for integration into the lightning protection system in accordance with currently applicable requirements. Integration of the antenna into the site lightning protection system is not included in the basic price. If the building does not have a lightning protection system, costs for integration or for creating the diversion of current are not included in the basic price.
- 1.2 The Client shall be responsible separately for other additional expenses that are incurred due to specific local features (for example longer cable routes, a larger antenna, drilling core holes, etc.). The Client has the option of obtaining a cost estimate from Claranet's technology partner before installing the directional radio antenna; the Client must pay for this itself.

2. Supplementary Obligations of the Client to Provide and Cooperate

In addition to Section I Clause 3, the Client has the following additional obligations with regard to directional radio (WLL) services from Claranet:

- 2.1 The Client must ensure that the preconditions required for technical equipment (e.g. space, cable shafts, power supply) are available for Claranet at no cost. The necessary set-up and installation work shall be performed during Claranet business hours (Monday to Friday from 08:00 to 18:00, excluding public holidays).
- 2.2 The Client must obtain all necessary official approvals and permissions independently and at its own risk. Claranet is freed from the requirement to provide service if the necessary official permits are not issued or are revoked. The same applies in case of any conflicts with neighbourhood regulations or other legal remedies of third parties against the radio installation.

3. Extraordinary Termination

- 3.1 The following shall apply in addition to the contract term and termination regulations specified in Section I Clause 11:
- 3.2 Claranet is entitled to extraordinarily terminate contracts regulating services based on WLL technology for important reasons. An important reason that entitles Claranet to such extraordinary termination is present especially if:
 - a) the wireless connection between the relevant Claranet WLL base station and the reception antenna at the Client's site is negatively impacted or interfered with, even temporarily, because of constructional changes or other external effects in the area of the radio link or
 - b) the contract for operating the WLL base station between Claranet and the owner of the building used for this purpose is terminated.
- 3.3 The Client is granted a special termination right if the WLL connection is permanently interrupted by constructional or similar measures.

4. Relocation

- 4.1 The Client is aware that WLL is not available everywhere and that the connection provided at the installation location on the order form is tied to a certain place. The contract applies for the agreed contract term at the agreed installation location. Relocation to a place where WLL is insufficiently available will be at the sole decision of the Client and does not entitle the Client to extraordinarily terminate the existing contract.
- 4.2 In the event of relocation to an address at which the contractually agreed WLL product is available from Claranet, Claranet shall make the Client a separate offer for the relocation or the continued provision of the access services at the new address upon request.
- 4.3 The relocation request must be conveyed to Claranet in writing a minimum of three (3) months prior to the required relocation date in order to provide the connection at the new location on time.
- 4.4 The price of the old connection is also to be paid by the Client until the new connection is definitively ready for use.

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IV. ADDITIONAL PROVISIONS REGARDING HOSTING SERVICES

Insofar as Claranet provides hosting services to the Client, these additional provisions shall also apply.

1. Scope of Services and Duties

- 1.1 In addition to Section I Clause 3, the Client has the following additional obligations with regard to hosting services from Claranet:
- a) During implementation and operation of the hosting services the Client shall
 - b) assist in formulating requirements and fine-tuning suitable solutions;
 - c) formulate adequate requirements for server configurations as may be necessary in reference to applications;
 - d) install the Client's own applications independently as required, or assist with the installation as agreed.
 - e) operate the Client's own applications independently or by making use of service providers or, if the parties have mutually agreed on transferring technical operation to Claranet, draw up a corresponding and suitable operating concept if the product contract so stipulates;
 - f) develop and maintain the Client's own applications and scripts independently if the product contract so stipulates;
 - g) and, unless otherwise agreed, independently provide and maintain the content of the website.
- 1.2 Furthermore, the Client must ensure that only the Client or general subcontractors commissioned by the Client and persons authorised by them have access to Claranet Business Support for accepting, prequalifying and bundling problems and requests from the Client and third parties.

2. Transfer of the System Environment upon Termination of the Contract

- 2.1 Claranet shall provide a quote to the Client in the retransition phase, which shall enable the Client to make a comprehensive calculation of costs that will be incurred by the Client from Claranet for a retransition or extension of services to a third party. When performing this task, Claranet agrees to offer standard market prices, taking into consideration the basis for calculation of contractual services provided at that time.
- 2.2 Especially during the period of any intended retransition at the end of the contract, Claranet agrees to train employees or external consultants to be named by the Client to work with the operating manual and systems described by the manual so that they will be sufficiently qualified and capable of ensuring and continuing operation. The Client shall be responsible for resulting expenses.
- 2.3 Claranet agrees to work closely and cooperatively with a third party to be named by the Client while transferring system operation. This applies especially to comprehensive and qualified instruction of this third party in system operation and the Client's systems. The Client shall be responsible for the resulting additional expenses before and after termination of this contract incurred and documented by Claranet.
- 2.4 If Claranet has entered into agreements with third parties to fulfil its obligations, Claranet shall provide help to the Client if requested in making corresponding agreements with these third parties.
- 2.5 Upon termination of the contract, Claranet shall return all documents it has received in connection with executing the contract or shall demonstrate that such documents have been properly destroyed. Existing data inventories and programs must be physically deleted. Documentation that serve to demonstrate that data was properly processed must be retained by Claranet beyond the end of the contract according to the relevant retention period.

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V. ADDITIONAL PROVISIONS REGARDING DOMAIN ADMINISTRATION

Insofar as Claranet performs domain administration for the Client, these additional provisions shall also apply.

1. Web Interface Usage Conditions for Domain Registration and Administration

1.1 The following usage conditions regulate the provisions on which Claranet makes an application to responsible domain registrar (DENIC, SWITCH, NIC.AT, inter alia) or intermediary registrar to register or transfer a domain and/or to transfer the administration of a registered domain on behalf of the Client. The guidelines of the respective TLD domain registry are also applicable to the following provisions.

- In this contract, 'registering' is deemed to mean the new registration of a domain ('REG').
- In this contract, 'transfer' is deemed to mean the transfer of a domain that is already registered from another provider to Claranet's administration or from Claranet's administration to another provider ('KK' or 'TRANSFER').
- In this contract, 'administration' is deemed to mean the forwarding of declarations of the domain holder to the domain registrar or intermediary registrar regarding an alteration to the data of the domain ('UPDATE'), a change of the domain to a provider other than Claranet (KK/CHPROV/TRANSFER) and the termination / deletion of the domain ('CLOSE') and other administrative measures regarding the domain, in particular the implementation of an internal provider change whereby the domain remains administered by Claranet.

The Client may also use the contractual services as a reseller. No contractual relationships are formed between Claranet and the end customer of the reseller as a result of the contracts concluded between the reseller and its end customers.

1.2 Claranet shall act vis-à-vis the responsible domain registrar or intermediary registrars as the declaratory agent of the Client or, in the case of a reseller, as the declaratory agent of the end customer for whom a domain is to be registered or transferred and administered or is administered (hereinafter also referred to as the 'future domain holder' or 'domain holder'). The registration contract between the domain registrar or the intermediary registrar is hereby regulated in accordance with the respective registration guidelines and provisions and price lists of the named organisations. Claranet shall advance the registration and administration fees to the domain registrar or the intermediary registrar.

1.3 Each order from the Client represents a separate contract ('individual contract'). An individual contract will thereby come into force in that the Client sends Claranet a binding order and Claranet begins to process the order, in particular by forwarding the applicable data to the respective domain registrar or intermediary registrars. The implementation of individual contracts for the registration or transfer of domains is subject to the availability of the respective domain. By multiple orders the unenforceability of individual orders do not affect the validity of implemented single orders. No liability is assumed in respect of information regarding the availability of domains on Claranet's website. In particular Claranet advise that this information is only the data status of the databases of the respective domain registrar or intermediary registrar forwarded on which will be adjusted at different times in relation to the legal allocation of domains.

1.4 Claranet will process the orders as quickly as possible, however it has no influence on implementation by the domain registrar or intermediary registrars. Claranet may at any time make the implementation of contracts conditional upon the prior payment of the fees owed.

1.5 Claranet shall provide the required support to the Client during Claranet's normal business hours for the implementation of the above stated services. The Client's end customers do not have any right to direct support from Claranet.

1.6 Claranet will provide two (2) name servers as a free of charge service for domains registered by Claranet for the duration of the registration (DNS service). Claranet reserves the right to cease the provision of this free of charge DNS service at any time, in whole or in part or to continue the service in return for payment of an additional fee. Claranet shall give the Client notice of the cessation of the free of charge DNS service or the change to a chargeable additional service with a notice period of at least one (1) month.

2. Processing Domain Orders and Invoices

2.1 The Client will exclusively use the web interface provided by Claranet for all communication with Claranet (in particular for all legally binding orders for new registration, transfer, transfer approval declarations, requests, domain termination and updating) insofar as this is technically possible and possible in terms of content. The web interface is at: <http://domainorder.claranet.de/>. If this is not available to the Client the Client will issue a written order to Claranet.

2.2 By initiating an order, the Client agrees to invoicing of the payment or fee for this in accordance with Claranet's domain price list.

2.3 Insofar as Claranet is entitled to block services in accordance with Section I Clause 16.1 or 16.2, Claranet can also block access to the aforementioned online-ordering systems for all functions.

3. Fees for Domains

The first payment-relevant administration period begins on successful registration or transfer of a domain or on the successful implementation of an internal provider change. If the contract is prematurely terminated (also on premature deletion of the domain or premature transfer of provider) the Client is liable for the full fee for the contractually agreed administration period. This does not apply if the termination is the result of extraordinary termination by the Client.

4. Additional Obligations of the Client to Provide and Cooperate

In addition to Section I Clause 3, the Client has the following additional obligations with regard to domain administration by Claranet:

4.1 The Client shall transfer the complete, accurate and valid domain contract in accordance with complete and accurate data required by the domain registration guidelines and provisions to Claranet for registration by or transfer to Claranet. Alterations to the data required by the respective domain registration guidelines or provisions and to the technical data required to connect to the domain ('UPDATE') and all relevant declarations of the domain holder for the domain contract between the domain registrar or intermediary registrar and the domain holder, all administrative and technical contact persons or the zone administrator shall be given to Claranet by the Client immediately and within three (3) working days at the latest. The above time period commences on receipt of the request or declaration in question from the domain holder by the Client. If Claranet itself should have a written declaration from the domain holder, Claranet can pass on the therein contained alterations to data or the declaration from the domain holder to the respective domain registrar or intermediary registrar without asking and independent of the domain holder's approval. The Client shall be subsequently immediately informed thereof. When using means of communication as per Chapter 2.1 of this clause this information will generally be passed on automatically and (except for deletion request) without delay. Claranet may however any at time request the stated written consent of the domain holder from the Client with a reaction time of one (1) working day. Declarations given by administrative contact persons (e.g. WHOIS Admin C) carry the same weight as declarations made by the domain holder unless there is a contradictory declaration of intent from the domain holder.

4.2 The Client is therefore responsible that all alterations to domain data and declarations of the domain holder it passes on to Claranet are made in the name of and on behalf of the domain holder. The Client is furthermore therefore responsible that it has an original or faxed copy of a concrete declaration of consent personally signed by the domain holder or by Admin C at the time of requests to transfer to Claranet, other requests to change provider or approval for this, requests to change the domain holder or approval for this and requests to delete a domain. In these situations Claranet is entitled but not obligated to forward all requests or approvals to the respective domain registrar or intermediary registrar without the need for Claranet to possess this written declaration of consent from the domain holder itself.

5. Term of the Contract, Termination and Change of Provider

The following shall apply in addition to and with precedence over the contract term and termination regulations specified in Section I Clause 11:

5.1 Insofar as the Client terminates the contract with Claranet regarding the administration of a domain, it must send Claranet the domain holder's application for deletion of the domain or KK to another registrar for the affected domain without delay. Otherwise, Claranet will release – i.e. delete – the domain at the end of the contractual term. If deletion occurs at the end of the contractual term, Claranet may bring about the deletion at the point of expiry of the respective termination notice period insofar as this is required in order to avoid an extension of the administration duration at the responsible domain registrar or intermediary registrar. The Client shall ensure that the end customer as domain holder is in agreement with this procedure. If the contract to administer a domain comes to an end without a deletion request from the domain holder (e.g. due to the end of this contract) and no request to change provider is made in time before the expiry of the administration period despite prompting the Client or if Claranet is no longer able to reach the Client, Claranet is entitled to pass the domain to the administration of the domain registrar or the intermediary registrar and/or to enquire with the domain holder or their provider whether further registration of the domain or a provider change is required and/or in emergencies to delete the domain. The Client shall ensure that the end customer as domain holder is in agreement with this procedure.

5.2 If the Client or its end customers possess a transfer request to another provider and the written declaration of consent of the domain holders in accordance with Clause 4.1 of this section, the Client shall immediately advise Claranet of its approval of the transfer ('ACK'). If the declaration of consent is not provided within three (3) working days the Client is obligated at this time to advise Claranet of the withdrawal of the transfer ('NACK'). If Claranet possesses a transfer request to another provider and the written declaration of consent of the domain holders in accordance with Clause 4.1 of this section, Claranet may immediately accept the transfer request without asking the Client and independent of the Client's approval or refusal (ACK) and forward this to the domain registrar or intermediary registrar. The Client shall be subsequently immediately informed thereof. If Claranet is informed by a domain registrar or intermediary registrar that a change of provider has been carried out which was not instigated by Claranet, Claranet will immediately forward this notification on to the Client. In addition the provisions of Clause 4.1 apply to transfers / provider changes.

General Terms and Conditions – Business Customers

Valid from 15 January 2022

VI. ADDITIONAL LICENSING / USE OF SOFTWARE

Insofar as Claranet provides software to the Client, these additional provisions shall also apply.

1. Providing Software

1.1 Miscellaneous

Claranet shall provide the Client with software as per the contractual agreements.

The Client is obliged to use the software provided to it solely in accordance with the rights of use granted to it under the contract. All other use is prohibited for the Client (cf. Section I Clause 14).

1.2 Providing Client Software (Third Party Software)

The Client has the opportunity to use its own software within the IaaS Cloud provided by Claranet, provided that this use is compatible with the (Client's own) licence and usage in this way is not prohibited. If software protected by copyright is illegally used by the Client and if Claranet becomes aware of this, Claranet shall, within the scope of its legal obligation, immediately disable the use of the illegally used software and prevent such use in future. The Client shall indemnify Claranet from third party claims based on the above illegal use of software; this indemnification shall also include the legal costs; this does not apply if the Client was not responsible for the illegal use of the software.

2. Use of Software Provided for Use by Claranet

Insofar as Claranet provides the Client with software from third-party licensors within the scope of its contractual service provision, the following provisions shall apply in addition:

- 2.1 The Client is prohibited from removing, changing or concealing copyright, trademarks or other references to ownership rights which are in or on the software. The respective manufacturer retains the ownerships rights to the software.
- 2.2 The Client is not permitted to alter software in a way which allows the functional, design and assembly principles to be inferred (reverse engineering).
- 2.3 The Client may not generate any source code for the software it is using (decompiling); Section 69e of the German Copyright Act (UrhG) remains unaffected by this.
- 2.4 The Client shall not reverse engineer the software provided in any way.
- 2.5 Claranet may give administration rights to the Client. This is provided solely for the purposes of maintenance, carrying out tests and administrating the products.
- 2.6 If the Client has been granted administration rights, the Client undertakes to only use these for the purposes laid down in the contract. The Client shall not misuse the administration rights, which above all includes removing administration rights from Claranet employees or granting additional administration rights without the prior consent of Claranet.
- 2.7 If the Client has been provided with software keys or installation media by Claranet these shall only be used for the purposes laid down in the contract and be subsequently immediately destroyed/deleted. Any other use of keys or installation media by the Client shall be deemed misuse.
- 2.8 Notwithstanding the regulation in Section I Clause 2.5, the current provisions of the 'End User License Agreement' (EULA) of the respective software provider apply in addition.
- 2.9 Sections 69d (2), (3) and 69e of the German Copyright Act (UrhG) remain unaffected by the above Clauses 2.1 to 2.8.

3. Microsoft Software

Claranet provides its Clients with selected Microsoft software (hereinafter referred to as 'MS software') within the scope of the Service Provider License Agreement ('SPLA') or the Cloud Service Provider Agreement ('CSP') between Claranet and the Microsoft Corporation (hereinafter referred to as 'Microsoft'). If MS software is provided to the Client for use, the following provisions also apply:

- 3.1 The Client's attention is drawn in particular to the application of the current provisions regarding no high risk use in Microsoft's End User License Agreements (EULA).
- 3.2 As an SPLA provider Claranet is obligated to inform Microsoft each month of the number of Microsoft licences actually used by Claranet's Clients. In order to enable this and to guarantee the swift and precise verification of the number of licences actually used in the event of a Microsoft audit Claranet has the right to verify compliance with the usage provisions for Microsoft licences. For this purpose the Client undertakes to grant Claranet appropriate access (e.g. by setting up sufficient admin and/or monitoring permissions).
- 3.3 If the Client terminates services where the Client has been provided with MS software for use for the term of the provision of contractual services, the Client shall:
 - delete the MS software provided to it for use from its own systems and to destroy / delete any existing licence keys, software keys or installation media at the latest 30 days after the provision of services has ended;
 - return to Claranet and/or make unusable all copies of the MS software provided to the Client or copies made by the Client within 30 days of the end of the provision of services. If agreed by the Contracting Parties in advance all copies may be destroyed or deleted and this confirmed in writing instead of returning the copies.

4. Reporting and Settlement / Contractual Penalties

- 4.1 Settlement for software provided by Claranet shall normally take place on the basis of the agreed number of licences. The Client has the opportunity to use more licences if applicable. If the actual number of licences used is greater than the agreed number of licences, the Client shall immediately inform Claranet of this. Additionally used licences will be invoiced separately in accordance with the prices applicable for the agreed number of licences.
- 4.2 The Client is obligated to inform Claranet of the number of licences actually used in the previous month by the fifth (5th) working day of the month. Should the Client negligently not comply with this duty, Claranet shall be entitled to impose a contractual penalty in the amount of twice the monthly licence amount for each infringement without prejudicing the right to exercise additional rights. The contractual penalty shall be offset against any claims for damages by Claranet.

5. Using Claranet Portals

- 5.1 Miscellaneous
If necessary, Claranet shall provide its Clients with free portals as an additional service which is not part of Claranet's scope of service. In using the portals, the Client declares its acceptance of the provisions applicable to this. Client's Cooperation Obligations
- 5.2 If the Client uses portals from Claranet, it shall keep its accounts / passwords used for the portal secret and store them safely. If the Client suspects that third parties have gained knowledge of passwords or have used passwords without authorisation, the Client shall inform Claranet of this immediately.
- 5.3 Technical Availability of and Changes to Claranet Portals
The content or availability of Claranet portals may be restricted for technical reasons. This does not result in the right to unlimited access to the portals. Claranet also reserves the right to change or add to its portals without separate notification.

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