

Special Terms and Conditions of Business for telegra DSLAccess of telegra GmbH

1 Contracting parties

The contracting parties are telegra GmbH (telegra) and the customer.

2 Subject of contract

2.1 The subject of the contract arises from the General Terms and Conditions (“AGB”), these product-specific Special Terms and Conditions of Business (Special Terms and Conditions – “BGB”), agreed price lists, as well as any regulations adopted in specifications and Service Level Agreements (SLA). These product-specific Special Terms and Conditions supplement the General Terms and Conditions and shall take precedence over these if there are conflicting regulations. On placing the order, the customer expressly acknowledges all the provisions applicable to the telegra DSLAccess product at the time of concluding the contract.

2.2 The product telegra DSLAccess belongs to the telegra FON PRO product group, which consists of the following (individual) products which can be combined as required:

- telegra Centrex – Telephone system in the Cloud, end devices
- telegra Access – Connecting the customer’s location via the products telegra DSLAccess, telegra LeasedLineAccess and telegra VPNAccess
- telegra Connect - Access to the public telephone network via local network numbers.

2.3 These Special Terms and Conditions, in conjunction with the German Telecommunications Act (TKG), regulate the provision of an IP connection (VDSL, ADSL2 + or SHDSL.bis or SHDSL connection, hereinafter uniformly referred to as DSL connection), plus telecommunications equipment (e. g. router, PMX converter) and the transfer and termination of IP traffic over a dedicated connection of the customer to the network used by telegra. They do not include connections to the public IP or telephone network.

2.4 The customer’s existing network infrastructure (LAN) as well as the connection from the building transfer point into the customer’s business premises are not cov-

ered by the contract. They shall be supplied under the customer’s own responsibility.

3 Coming into force of the contract

3.1 The contract shall come into force on written confirmation of the customer’s order by telegra, and no later than the relevant service is provided by telegra. The customer shall be bound to its order for four weeks. telegra shall remain free as regards acceptance of the order.

3.2 telegra shall be entitled to make the provision of services dependent upon the provision of a security. This shall also apply after the contract has been concluded if the customer is in default with its payment obligations.

3.3 telegra reserves the right to deviate from the services offered for technical reasons after the contract has been concluded.

4 Services by telegra

4.1 telegra shall provide the customer, within telegra’s existing technical and operational capability, with a DSL connection, including technical telecommunications equipment, for appropriate use, while the customer shall not be entitled to new telecommunications equipment. telegra shall undertake the IP based transfer of voice and data from and to the customer via the DSL connection via a dedicated connection to the IP network used by telegra.

4.2 DSL connection

With the DSL connection, telegra shall facilitate for the customer a rapid connection to the IP network used by telegra.

However, this feature is not comprehensively available and must be reviewed and confirmed individually for each connection. telegra shall therefore be under an obligation to provide the access service at the earliest when a final confirmation to switch to the subscriber connection line (TAL), including an expected switching date, exists. Nor can dates or deadlines be confirmed bindingly beforehand.

The specifically achievable transmission speed at the customer’s connection will depend on the particular physical characteristics of the connection line (e. g. length, quality). Insofar, any values which may be indicated represent maximum values.

4.3 DSL Access installation

telegra shall install the DSL connection for the customer, along with the agreed telecommunications equipment, on working days (Monday to Friday) from 08:00 to 18:30. The

installation shall include the assembly of the telecommunications equipment and handover.

Dates or deadlines for the installation, commissioning etc. shall only be binding if telegra has confirmed these in writing to the customer, and the customer on its side has met all the requirements falling under its area of responsibility for the execution of the services by telegra in good time, and has also made all the necessary declarations of intent. Dates or deadlines agreed as binding shall be postponed by an appropriate period in the event of a temporary and unforeseeable impediment to performance for reasons for which telegra is not to blame. Such impediment to performance would especially be if the switching of the TAL by the subscriber network operator was not carried out on time.

All maintenance and modification work on the telecommunications equipment provided for the duration of the contractual relationship may only be carried out by telegra or its agents. Maintenance and repair by telegra explicitly does not extend to third-party products and to installations made by the customer itself, the customer's network infrastructure (LAN) etc. During the work, telegra shall be entitled to put the telecommunications equipment out of operation. telegra shall also be entitled to correct faults by means of remote support, insofar as this is technically feasible.

4.4 The anticipated period between the confirmation to switch the TAL (see point 4.2) and the provision of the access service by telegra shall be approximately 12 weeks.

4.5 None of the telecommunications equipment installed at the customer's shall pass over into the ownership of the customer.

4.6 The customer shall ensure that telegra – where necessary – is sent a contract on the use of land in accordance with § 45a German Telecommunications Act (TKG).

5 Limitation of the performance obligation – Self-supply clause

The performance obligation of telegra is subject to correct and timely self-supply of goods (e. g. telecommunications equipment) or upstream services (e. g. TAL). However, this shall apply only to the extent that telegra has concluded a matching cover transaction with the upstream service supplier with the necessary due care, and the incorrect or late delivery is not due to any fault of telegra's. If the service is not provided on time, telegra shall inform the customer of this fact immediately. The foregoing shall also apply to continuing obligation contracts and failure of upstream services during the contractual period.

6 Duties of the customer

6.1 The customer undertakes to pay the fees agreed for telegra's services when they fall due.

6.2 The customer undertakes to use telegra's services (e. g. DSL connection) in accordance with the applicable laws and taking into account the rights of third parties. The customer shall set up its pattern of usage so that an excessive load on the server and/ or other services is avoided.

6.3 The services provided to the customer may not be misused, in particular it is not permitted to

- a. send any information, items and other services that are legally prohibited or unsolicited, such as unwanted and unsolicited advertising by e-mail, fax, telephone or SMS, or dialler programmes which do not comply with the law;
- b. make any illegal contact by means of telecommunications resources (§ 238 German Criminal Code (StGB));
- c. transmit any information with illegal or immoral content or put it on the Internet or draw attention to such content. This includes, in particular, information which, as defined in §§ 130, 130a and 131 of the German Criminal Code, is used for the purposes of incitement, encourages crime or glorifies violence or trivialises violence, is sexually offensive, is pornographic within the meaning of § 184 of the German Criminal Code, is likely to seriously endanger the morals of children or young persons or to impair their well-being, or is likely to damage the reputation of telegra. The provisions of the German Interstate Treaty on the Protection of Minors from Harmful Media and the Youth Protection Act shall be observed;
- d. create any connections which lead to payments or other considerations by third parties being made to the customer;
- e. the national and international copyrights and trademarks, patents, name and labelling rights and other industrial property rights and personality rights of third parties must be observed.

6.4 The customer shall provide appropriate support to telegra during the installation of the DSL connection and telecommunications equipment and the provision of services, and, in particular, shall provide access to the necessary premises for suppliers and other agents during the agreed

installation period as defined in point 4.3. This shall also apply for maintenance and repair work. If the customer culpably fails to fulfil his cooperation obligations or seriously refuses them, the service shall be considered as provided as from that date. In this case, telegra shall agree a new date and invoice any additional journey that may be required.

6.5 The customer shall notify telegra after the date for the making available of the TAL by the network operator immediately, not later than the fifth day after the agreed delivery date, using the telephone number or E-mail address to be indicated by telegra, as to whether the provision has been carried out successfully. The notification is required to enable telegra to activate the connection or if necessary to agree on a new delivery date with the network operator.

6.6 Furthermore, the customer shall ensure, at its own expense, that the basic supplies (e. g. electrical power) are available on an ongoing basis at the activating address. The customer shall ensure that the location has sufficient electrical power available during installation and during the contractual term, is adequately air-conditioned and is sufficiently secured against fire, lightning and overvoltage, theft, vandalism and improper handling (business contents insurance and/ or electronics insurance). The customer shall provide the electrical power for the installation, operation and maintenance of telecommunications equipment at its own expense.

6.7 All maintenance work on leased telecommunications equipment may only be carried out by telegra or a third party commissioned by telegra, unless telegra is in default of the correction of faults.

6.8 Obligation to notify faults or malfunctions

The customer undertakes to notify telegra immediately of recognisable faults or malfunctions of the DSL connection and the telecommunications equipment and to support telegra to a reasonable extent in correcting the fault. The assertion of alleged rights by third parties shall also be notified to telegra forthwith, especially if a precautionary measure for the protection of the telecommunications equipment is required against an unforeseen risk. telegra has set up a service hotline to receive fault notifications from its customers.

The customer shall refund to telegra any expenses incurred after submitting a fault notification if it turns out after verification that the fault was not in the area of responsibility of telegra. In particular, faults in the customer's LAN cabling and the associated active and passive components (e. g. switches, patch panel, electrical power supply) lie within the customer's area of responsibility.

6.9 The customer shall use the leased telecommunications equipment of and the services provided by telegra with due care for their intended purpose, properly and within the framework of the applicable laws. To operate the telecommunications equipment it shall use only equipment and accessories which are recommended by telegra or the manufacturer of the end devices.

6.9 The customer shall be responsible for ensuring that only technical equipment which is considered suitable for this purpose by telegra is used on the router provided by telegra as part of the telegra DSL product. The connection of the end devices must be made via technically and electronically suitable interface cables.

6.10 The customer undertakes not to disclose to third parties any personal access data made over to him (e. g. for Internet access) and to keep it protected from access by third parties. As far as this is possible for the customer itself, the access data should be changed at regular intervals. If there is reason to suspect that unauthorised persons have gained knowledge of the access data, the customer shall inform telegra forthwith and change the access data, or have it changed by telegra. Access data may be stored on the PC, a USB flash drive or a CD-ROM only in encrypted form.

6.11 telegra shall be entitled to restrict the services should this be required to ensure the security of network operations, maintenance of network integrity, in particular the avoidance of serious breakdowns of the network, etc., the interoperability of services, data protection or prevention of risk.

6.12 The customer shall indemnify telegra from all claims by third parties that are based on an unlawful use of the services of the DSL Access product by the customer or which are carried out with its approval, or that arise in particular from data protection, copyright or other legal disputes which are associated with the use of one of telegra's products. If the customer becomes aware of an imminent violation or if it must become aware of such violation, immediate notification by the customer shall be required.

6.13 telegra shall be entitled to block the respective service at the customer's expense in cases of serious breaches of the obligations incumbent upon the customer, as well as in cases of reasonable significant suspicions of a breach of obligation under point 6.3 (Misuse) of these Special Terms and Conditions. The customer shall remain under an obligation to pay the monthly prices in this case.

7 Prohibition of transfer to third parties

7.1 The resale of services by telegra to third parties is

not permitted without the prior written permission of telegra. The customer shall not be entitled to sublet the services of the product DSL Access to third parties without prior permission or to make them available to third parties for continuous sole use.

7.2 The customer undertakes to pay agreed fees, even if these are caused by authorised or unauthorised third-party use of the DSL connection, if and insofar as the customer is responsible for such use.

8 Service disruptions

8.1 telegra shall provide its services within its existing technical and operational capability and shall correct breakdowns of the DSL connection and the telecommunications equipment, insofar as they fall within its area of responsibility, in accordance with the regulations of the agreed SLA. Should breakdowns occur for which no SLAs exist or if these do not contain any regulations, the correction of the faults shall be carried out within a reasonable period.

8.2 Faults in the telecommunications equipment (e. g. PMX converters, routers)

If the customer has fulfilled its obligation to notify, regardless of its statutory claims to a reduction in the rent and the payment of damages, it shall have a claim against telegra for remedial measures to correct the defect, provided that the leased telecommunications equipment has faults which have a not merely negligible negative affect on its contractual use. The remedial measures shall be considered as a contractually agreed right to supplementary performance. Only if the remedial measures are not carried out within a reasonable period shall the customer be entitled to assert further claims against telegra. telegra shall be entitled to supply replacement telecommunications equipment instead of remedial measures. The liability of telegra for damages irrespective of culpability (§ 536 German Civil Code (BGB)) shall be excluded for faults existing upon conclusion of the contract.

8.3 Third-party products

telegra shall assume no liability for the proper operation of the DSL connection, the telecommunications equipment and its other services if the customer has connected third-party products. This shall apply even if this has been done with the permission of telegra. The customer itself shall be responsible for the maintenance of third-party devices. If third-party devices impair the functioning of the DSL connection, the leased telecommunications equipment or other services of telegra, telegra shall be entitled to disable the third-party products at the expense of the customer.

8.4 For any claims for damages, the liability provisions in the General Terms and Conditions and, in addition, point 8.5 of these Special Terms and Conditions shall apply.

8.5 Liability shall be excluded for data loss or hardware failures that are caused by incompatibility of the components existing on the customer's PC system with the new hardware or software, or hardware and software that is to be modified, respectively, and for system faults which may arise due to existing misconfigurations or older, faulty and incompletely removed drivers. The same shall apply to voice files (e. g. mailboxes) that telegra holds available for the customer.

9 Blocking the connection

9.1 telegra shall be entitled to block the customer's DSL connection completely or partially even if:

- a. the customer, after deduction of any down payments, is in arrears with payment obligations totalling at least 75 euros on all products in the telegra FON PRO product group,
- b. as soon as the termination of the contract takes effect, or
- c. if, because of a particular increase in calls in comparison with the previous six billing periods processed, the amount of telegra's claim for charges rises significantly and facts justify the assumption that the customer will complain about this demand for payment.

9.2 In the event that the customer falls into arrears with payment, the block shall be notified to him in writing, giving a period of notice of at least two weeks, with a simultaneous warning and indication of the possibility of legal protection before the ordinary courts. The customer shall remain under an obligation to continued payment of the monthly fees even after the block has been set in place.

9.3 The customer shall bear the costs of blocking the connection and possibly for reconnection.

10 Term of the contract

10.1 All contracts for products of the telegra FON PRO product group which are concluded for a location in relation to articles including hardware components (such as lines, end devices, routers, VPN Connect, DECT base stations, fax connections) shall be fixed-term contracts and subject to a uniform contractual term (hereinafter "term-dependent contracts"). Such contracts shall end at the end of the minimum term agreed for the location, regardless of the date on

which the individual contracts are concluded.

10.2 The contractual term for each location shall be agreed in writing as a minimum contractual term between the parties on placing the order for the first telegra FON PRO product ordered for this location. It shall be at least 24 months.

10.3 All other contracts for individual services and/ or mobile services within the telegra FON PRO product group, e.g. extensions contracted within the telegra Centrex product or access to the public telephone network, the so-called exchange line (telegra Connect product) shall be concluded for an unlimited term.

10.4 The beginning of the minimum contractual term for all term-dependent contracts for the location shall be on the first day of the month in which the last contractual components necessary for the transfer and termination of calls from and into the public telephone network (i. e., connection of the location or handover of the end device) was made available in serviceable condition. At the latest, the term shall start on the 1st of the month in which the system was used for the first time for incoming and/ or outgoing calls in the public telephone network via extensions of the location.

10.5 The telegra Access products shall be considered as having been made available in operational readiness on completed installation; the telegra Centrex product on provision of serviceable end devices and/ or extensions to the customer. The minimum contractual term for end devices delivered shall be determined by the minimum contractual term of the location for which an end device was commissioned for the first time. This shall apply even if the end device is moved to a location later and is used there.

11 Termination

11.1 Term-dependent contracts may be terminated in writing for the first time at the end of the agreed minimum contractual term, giving a notice period of three months. If no contracts of any contracting party are terminated at the end of the minimum contractual term, the contractual term for all term-dependent contracts for telegra FON PRO products commissioned for the location shall be extended for another year in each case.

11.2 Unless otherwise provided for by agreements, non-term dependent contracts for services and mobile services, with the exception of the exchange line, may be terminated in writing at any time to the end of the month without giving a period of notice.

11.3 The right of cancellation for good cause shall remain unaffected by these regulations. telegra shall be especially entitled to terminate a contract for good cause if the customer:

- a. makes abusive use of services or violates penal provisions in their use;
- b. is in arrears with the payment of fees or a significant proportion of the fees for two consecutive months or, in a longer period of time, for a sum amounting to the monthly price for two months;
- c. gives up the location prematurely and no longer uses the services permanently (e. g. due to relocation).

11.4 If telegra terminates the term-dependent contractual relationship for the location before the end of the regular contractual term for a good cause attributable to the customer, the customer shall be obliged to pay to telegra, as a lump sum due immediately, damages to the amount of three-quarters of the remaining monthly prices for all term-dependent contracts for the location concerned payable until expiry of the agreed contractual term. The amount of damage shall be assessed as higher or lower if telegra proves a higher amount of damage or the customer proves a lower amount of damage.

11.5 If the customer terminates the term-dependent contractual relationship for good cause before the services have been provided in serviceable condition or before agreed modification work was carried out, it is to compensate telegra for the expenses already incurred for work carried out and for the dismantling of already installed telecommunications equipment rendered necessary by the cancellation, however, this shall not exceed the amount of the price agreed for the provision or modification.

12 Return of the telecommunications end devices

The customer undertakes to return all leased telecommunications equipment (routers, base stations, patch cables etc.) in due form within 14 days after the end of the contract. If the telecommunications equipment is not received by telegra within this period, telegra shall be entitled to demand from the customer the new price for a comparable telecommunications end device. If uninstalling and return transport on behalf of the customer is carried out by telegra, telegra shall bill the customer for the expenses incurred in accordance with the agreed prices.

13 Final provisions

13.1 The customer may institute arbitration proceedings in a dispute with telegra as to whether telegra has fulfilled the obligations towards the customer as provided for in §§ 43a, 45 to 46 para. 2 and § 84 of the German Telecommunications Act (TKG) by an application to the Federal Network Agency. Applications to the Board of Arbitration of the Federal Network Agency may be submitted electronically in the online process or in writing by letter or fax. The Rules of Procedure may be obtained from the Federal Network Agency or on <http://www.bundesnetzagentur.de>.

13.2 If one or more of the conditions listed in these Special Terms and Conditions are ineffective based on the legal provisions, the effectiveness of the remaining conditions shall not be impaired. The parties undertake to replace the ineffective conditions by conditions equivalent to them in their economic result.