

General Terms and Conditions

The present Standard Terms and Conditions shall apply to all business dealings of ccn corporate communication networks GmbH ("ccn") where ccn makes available services, objects or rights. The following provisions shall apply exclusively. Contradicting or deviating terms used by the Customer shall not apply, except if ccn has expressly approved of their validity in writing. The following provisions shall even apply if ccn, being aware of terms used by the Customer which contradict or deviate from the following provisions, performs the service to the Customer without any reservations.

1. Conclusion of the contract, priority

1.1 Conclusion of the contract

The contract is concluded through the signing of a contract document by both Parties. Except if agreed otherwise in an individual case, the offer documents which ccn transmits to the Customer in preparation of the conclusion of the contract shall merely constitute a non-binding invitation to contract, to which ccn shall not be bound prior to the signing of the contract..

1.2 Priority

In the event of contradictions between these Standard Terms and Conditions and the provisions set out in the contracts, the contract provisions shall take priority.

1.3 Due dates

Specified delivery, provision and other due dates shall be non-binding target dates unless they have expressly been referred to in writing as "binding". ccn shall inform the Customer in good time should there be a threat that the target dates may be exceeded, also stating reasons.

2. Remuneration, payment terms

2.1 Net prices

All prices and remuneration sums quoted are net prices (not including value added tax). Except if expressly agreed otherwise, travel, accommodation and catering costs shall be additionally invoiced to the Customer at cost price. This shall not apply to services which are billed at a fixed price.

2.2 Price adjustments

For hosting and access providing contracts as well as other contracts for recurring obligations, ccn shall have the right to adjust the agreed prices or remuneration sums in accordance with the general price developments in the relevant field of services. Notification of price increases must be made in writing not less than three months prior to such price increases taking effect. Should a price increase within a 12 month period be more than 5 %, the Customer shall have the right to terminate the contract within 30 days from receipt of the notification of the price increase. In this event, ccn shall be free to choose whether to refrain from the notified price increase for the contradicting Customer, or whether to accept the termination. Should ccn decide to withdraw a price increase for the Customer, the contract shall continue at the terms agreed before.

2.3 Payment dates

Except if expressly agreed otherwise, invoices shall be due for immediate payment upon receipt. From the 10th day after receipt of an invoice, ccn shall have the right to claim incurred default damages, as a minimum, however, default interest amounting to 5% per year above the base rate, without an additional reminder being required. ccn reserves the right to assert further damages on account of default in payment. This shall, if applicable, in particular be the case in the event of the exercising of blocking and termination rights under Section 45k of the Telecommunication Act (TKG).

2.4 Set off and retention

The Customer shall only have set-off and retention rights if his counter-claim has been recognised through a final judgment, is ready for a decision or is undisputed.

2.5 Objections against invoices

The Customer shall assert any objections against the invoice without undue delay, however, not later than within a deadline of six weeks from receipt of the invoice, through a written notification to ccn. An invoice shall be deemed to have been approved if the Customer does not object to such invoice prior to expiry of the above deadline. Any statutory claims which the Customer may hold due to justified objections after expiry of the deadline shall remain unaffected if and in as far as ccn is still able to examine such objections under applicable privacy law regulations.

3. Cooperation obligations

3.1 Cooperation by the Customer

The Customer acknowledges that, in order to successfully and in good time provide the services incumbent upon ccn, ccn is reliant on comprehensive cooperation on the part of the Customer. Therefore, the Customer undertakes to make available in full and in good time all equipment to be furnished by the Customer, all information and all infrastructure services required within the Customer's sphere of operations for the professional performance of the services. Any delays caused by the Customer failing to comply with his cooperation obligations in good time and in full shall be the Customer's responsibility. Performance periods shall automatically be extended by the period of such delays. After a corresponding reminder, ccn may invoice the Customer for any additional costs incurred due to such delays, based on ccn's current price list. In addition to this, ccn may request that the Customer issue any necessary declarations or carry out any required decisions and acts, setting an adequate deadline. Should the relevant cooperation activity not be carried out prior to expiry of this deadline, ccn shall have the right to terminate the relevant contract for cause. Any other rights which ccn may have shall remain unaffected.

3.2 Cooperation obligations

Within the framework of his cooperation obligations, the Customer shall in particular be obligated

- a) to name a competent contact who has comprehensive authority to negotiate and contract, and who shall ensure that the cooperation obligations are being complied with;
- b) to see to it that his employees cooperate with the employees assigned by ccn;
- c) if services are to be provided on site, to grant access to the necessary installations to the employees assigned by ccn, in order for them to be able to perform the services;
- d) to have available all data affected by the services in a machine-readable format as a back-up copy, which is to allow the reconstruction of lost data at reasonable cost and expenditure of time;
- e) to, if applicable, keep secret his personal customer codes, log-in names and passwords, and to immediately change them or have them changed by ccn if he suspects that unauthorised third parties have obtained knowledge thereof;
- f) to inform ccn without undue delay of any facts of which he learns and which may impair the provision of the services;
- g) to promptly inform ccn in writing or by telefax of any changes to his name, company name, residential or business address, telephone number, e-mail address, account, bank details or other circumstances which are of relevance for the contractual relationship.

General Terms and Conditions

3.3 Due dates and availability

In as far as the Customer has agreed with ccn on specific provision or availability dates, such dates shall only apply subject to the proviso that the Customer fulfils in good time all relevant preliminary work and his cooperation obligations.

Acceptance

4.1 Examination and acceptance obligation

In as far as a formal acceptance is required by law or the contract, the Customer shall examine the services provided immediately after their completion in order to verify whether they comply with the contract. Should the Customer during such examination find that the services provided comply with the contract, he shall be obligated to immediately confirm formal acceptance to ccn. Should the Customer during such examination find deviations from the agreed content of the services, he shall promptly inform ccn thereof in writing. This notification must include a sufficiently specific description of the deviation which has been found, in order to allow ccn to identify and rectify such deviation. The rectification of deviations requires that the deviation which has been found can be reproduced by ccn.

4.2 Procedure in cases of deviations

Material deviations from the agreed content of the services shall be rectified by ccn as soon as possible, and shall then be presented to the Customer for acceptance; the repeated acceptance inspection shall be limited to the determination that the deviation has been rectified. The Customer shall record any non-material deviations in writing in the acceptance declaration, and ccn shall rectify such deviations within the framework of the statutory provisions governing the rectification of defects.

4.3 Fictitious acceptance

Should formal acceptance not take place, ccn may notify the Customer in writing, setting a period of grace of 14 days to declare formal acceptance. Acceptance shall be deemed to have taken place if the Customer does not specify in writing any material defects which he has detected prior to expiry of this deadline. Furthermore, acceptance shall always be deemed to have taken place once the Customer uses the service for commercial purposes. In this event, ccn shall only rectify defects within the framework of the statutory provisions governing the rectification of defects.

5. Warranty

5.1 Limitation of action

Any claims which the customer may hold vis-à-vis ccn based on a defect shall become time-barred after the expiry of one year, whereby this period, in the event of contracts for work, shall start at the time of the declaration of formal acceptance, or, in the event of a purchase contract or a contract for work and materials (Section 651 of the German Civil Code, BGB), at the time when the goods are delivered, except if a deviating agreement has been reached.

5.2 Replacement or rectification

In the event of justified defects which have been asserted in good time, ccn shall rectify the defects at its own choice by either rectifying the defect or supplying a replacement which is free of defects. Should replacement or rectification be refused, fail or be unreasonable for the Customer, the Customer shall have the right to withdraw from the contract, to reduce the price or to assert damages in accordance with clause 5.3 below.

5.3 Deadline for replacement or rectification

The Customer shall only have the right to withdraw from the contract - provided that withdrawal is not ruled out by law -, to reduce the purchase price or to assert damages, once an adequate period of grace set by him for replacement or rectification has expired, except if the setting of such period of grace is not necessary due to the statutory provisions. Withdrawal or damages in lieu of the entire performance shall be excluded if ccn's breach of obligations is merely immaterial.

If ccn has already performed a part of the service, withdrawal and the assertion of damages in lieu of the entire performance shall only be possible if the Customer has no interest in the partial performance (Sections 280 (1), 323 (5) of the BGB). In the event of a withdrawal, the Customer shall be liable for any deterioration, destruction and failure to exploit emoluments, not only for the diligence usually applied to his own affairs, but for any negligent or intentional activities. In the event of a fraudulent concealment of a defect, or if a warranty as defined in Section 444 of the BGB has been assumed, the Customer's rights shall be governed by the statutory provisions.

5.4 Unauthorised modifications

The Customer's claims on account of defective services or goods shall cease to exist if the Customer carries out a modification or adaptation to the goods or services supplied by ccn without authorisation by ccn, except if the Customer can prove that the relevant defect was not caused by such modification, neither entirely nor in part.

5.5 Unjustified error reports

If the Customer is responsible for a reported error, or if an error reported by the Customer does not exist, ccn shall have the right to invoice the Customer for any costs incurred due to the error report and rectification.

6. Liability

6.1 Liability and damages

In the event of intent or gross negligence on the part of ccn and ccn's representatives or vicarious agents, ccn's liability shall be governed by the statutory provisions. Otherwise, ccn shall only be liable in accordance with the Product Liability Act (ProdHaftG), on account of culpable loss of life, bodily injuries or damage to the health of a person, on account of a culpable breach of essential contractual obligations, or if ccn has fraudulently concealed a defect or assumed a warranty for characteristics, as well as in the event of delayed or impossible performance. The claim for damages for the breach of essential contractual obligations shall, however, be limited to the foreseeable damage which typically occurs in this type of contract, except if another event of mandatory liability under sentences 1 or 2 above applies at the same time.

6.2 Scope of application

The provisions in subclause 6.1 above shall apply to all claims for damages (in particular damages in addition to performance and damages in lieu of performance), irrespective of their cause in law, in particular on account of defects, the breach of obligations under the contractual relationship or claims in tort. They also apply to claims for reimbursement of wasted expenditures.

6.3 Burden of proof

The above provisions shall not result in a change of the burden of proof to the Customer's detriment.

6.4 Defects in third-party products

ccn does not assume any liability for system-inherent defects in third-party products, in particular software products, made available or provided by ccn within the framework of the services, except if the defect could have been identified had ccn properly inspected the third-party product prior to performance.

6.5 Telecommunication services

ccn's liability for financial losses caused by ccn in connection with telecommunication services shall additionally be limited in accordance with Section 44a of the Telecommunications Act (TKG).

6.6 Other restrictions of liability

The Parties may enter into separate agreements regarding other restrictions of liability.

6.7 Extension

In as far as ccn's liability is excluded or limited, this shall also apply to the liability of ccn's employees, representatives and vicarious agents.

General Terms and Conditions

6.8 Force majeure

In the event of force majeure, such as war, unrest, natural disasters, fire, strikes, lock-outs, sabotage by third parties and similar events, neither Party shall be liable vis-à-vis the other Party for any delays or non-performance caused by such event of force majeure. Should an event of force majeure continue for more than one month, both Parties shall have the right to terminate the contract for cause. In this event, claims for compensation or damages shall not exist.

7. Infringements of third-party property rights

7.1. Indemnification from third-party claims

In as far as third parties assert claims against the Customer on account of the contractual use of the products supplied or services provided by ccn, based on an infringement of industrial property rights or copyrights, ccn undertakes to indemnify the Customer from and against such claims as well as the reasonable costs of defence against such claims. However, the above indemnification obligation shall only apply if (a) the Customer notifies ccn in writing immediately after obtaining knowledge of such claims asserted against him, (b) ccn is granted control of all defence measures and settlement negotiations relating to such claims and (c) the Customer reasonably supports ccn in the defence against, or settlement of, such claims.

7.2 Knowledge

ccn shall only be obligated to pay damages on account of an infringement of third-party property rights via the indemnification obligation under clause 7.1 above if ccn was, or should have been, aware of the infringement of this property rights.

7.3 Exclusion of claims

The Customer shall not have any claims under this clause 7 if the infringement of third-party rights is based on the fact that the Customer (a) has carried out a modification to the provided products or services without approval by ccn, (b) has used the products or services contrary to ccn's instructions or (c) has combined them with hardware or software which has not been approved by ccn.

8. Reservation of title

8.1 Reservation of title

ccn reserves its title to all supplied hardware and software as well as any other objects, up until full payment of all present or future claims relating to the business relationship with the Customer. The Customer shall be obligated to handle with care the hardware and software up until full transfer of title, and in particular to carry out in good time any necessary maintenance and inspection work. The Customer may neither pledge the objects, nor transfer them by way of security.

9. Usage rights

9.1 Third-party software

If software produced by third parties is supplied, the scope of the license shall be governed by the license terms of the relevant software producer.

10. Deliveries from our suppliers, subcontractors

10.1 Reservation of proper self-supply

In as far as it is recognisable for the Customer that the hardware or software or other goods or services which he obtains from ccn are acquired by ccn from a third party, all agreed delivery terms, availabilities and specifications shall apply subject to the proviso that ccn is duly supplied by such third parties, except if ccn is responsible for the non-performance of such supplies. Should a specific product not be available, or only available in part, ccn shall inform the Customer without undue delay of the non-availability of such products. Any payments already made shall be reimbursed by ccn.

10.2 Subcontractors

Except if agreed otherwise in writing between the Parties, ccn shall have the right to assign subcontractors with the fulfilment of the performance obligations incumbent upon ccn.

11. Changes to the Agreement

11.1 Notification of changes

Notification of changes to these Standard Terms and Conditions shall be made by the mailing of the modified terms to the Customer.

11.2 Termination rights

In as far as these Standard Terms and Conditions are changed to the Customer's disadvantage in accordance with the previous subclause, the Customer shall have the right to terminate the contract for the relevant service with effect as per the time at which such change becomes effective. ccn shall make the Customer aware of his termination rights in the notification of the change. The Customer's termination rights shall cease to exist if the Customer has not exercised these rights within one month from the notification of the termination rights.

12. Confidentiality

12.1 Principles

The contracting Parties undertake to keep secret all confidential information which they receive from the other Party in connection with the fulfilment of the contract, also after the expiry or termination of the contract, and to only use such information for the purpose of fulfilling their respective duties. Confidential information shall mean all information marked as confidential, as well as information the confidentiality of which results from their nature.

12.2 Exceptions

The confidentiality obligations under the above subclause shall not apply to information which is accessible to the general public, or is made accessible without any fault on the part of the other Party. Furthermore, they shall not apply to information which is in the possession of the other Party at the time of its disclosure, or has been developed independently by this other Party. The burden of proof for the fact that one of the above exceptions applies shall be borne by the Party who invokes such exception.

13. Data privacy, telecommunication secrecy

13.1 Principles

The Customer's personal data shall only be collected, processed or used in as far as the affected person has given his/her approval, or if this is permitted under the Data Protection Act (BDSG), the TKG, the Telemedia Act (TMG) or other applicable legal provisions, or if the Customer has given his approval.

13.2 Secrecy of telecommunications

ccn shall observe the secrecy of telecommunications within the framework of the statutory provisions.

14. Miscellaneous

14.1 Applicable law and place of jurisdiction

Any contracts concluded by making reference to these Standard Terms and Conditions shall be subject to German law, to the exclusion of the provisions of international private law. If the Customer is a business, the exclusive place of jurisdiction for all disputes in connection with this contract shall be Munich (München) Germany.

14.2 Severability

Should individual provisions in these Standard Terms and Conditions or in the contracts be or become partially or entirely invalid, or if the contract is found to contain a regulatory gap, this shall not affect the validity of these Standard Terms and Conditions and of the contract as a whole, nor the other contractual provisions.

München, February 2015

ccn corporate communication networks GmbH