



MOX TELECOM IRELAND

General Business Terms and Conditions

of Mox Telecom Ireland, Dublin, a branch of Mox Telecom AG (Germany), for the Provision of Telecommunications Services of Calling Card (RESALE)

1. Preamble

1.1. As a reseller, Mox Telecom Ireland (hereafter referred to as “Mox”) provides telecommunications services (also called “services”) for the public. In the same way Mox also offers customers PINS for Calling Card Services and many other services.

1.2. The “Calling Card” Service is a telephone service, which is provided on the precondition that the respective customer has made the payment for the service in advance (prepaid) on the basis of an account in credit (calling card). The owner of the card, by means of his or her PIN number, can use the calling card for telecommunications services on the current rate up to the nominal amount of the card (credit). The usage of the calling card starts with dialling a freephone number (i.e. 0800) and requires the authorization with the PIN number (PINS) assigned to the card.

1.3. The contracting party (hereafter referred to as “RESELLER”) intends to offer his customers in the EU or abroad, a Calling Card Service in his own name and on his own account (by means of an “own Calling Card” with an own brand). In order to pursue this business purpose, the RESELLER wants to buy the required PINS from Mox. The RESELLER also wants to use the Mox Calling Card Platform, which is necessary for the production of the services and the accounting of the cards.

1.4. This part of the contract is condition to the rules stipulated under subparagraph 2 of the present general terms and conditions as well as the provisions of the regulations concerning

telecommunication customers’ protection. The contract is considered made as soon as Mox accepts the order of the RESELLER.

2. Subject Matter of the Contract

2.1. Within the scope of their technical and operational facilities, Mox makes PINS available to the RESELLER, that are intended to be used by customers of the RESELLER (third-party customers). The PINS thus bought from Mox, the RESELLER independently sells in his own name and on his own account to third-party customers (“Resale”). The RESELLER is not authorized to legally represent Mox.

2.2. The PIN includes the provision of the telecommunications services (dial-up via 0800 number and timing of the desired calls as far as the connection allows). The management of the PINS, particularly the setting of tariffs, administration of deposits, activation and stoppage of calling cards by the Calling Card Platform are the responsibility of Mox. In return, Mox will provide the RESELLER with an access to the Calling Card Platform via secured data connection, which the RESELLER will be able to use any time independently and without being influenced by Mox.

2.3. The use of the RESELLER’s calling card is possible as soon as the RESELLER has activated these cards on the Calling Card Platform and all the contractual requirements for the service provision on the part of Mox have been met

(notably the payments on the part of the RESELLER have been made). Mox provides the RESELLER with access facilities to the Calling Card Platform for the activation of PINS and the management of services. Under the conditions of subparagraph 7, the RESELLER is exclusively entitled to activate PINS.

2.4. The deposit of the calling card (deposit of the end customer of the RESELLER) will be settled on the basis of the phone calls made and the purchase tariffs agreed upon in writing with the RESELLER (A-Leg, supply, timing, and further user fees, maintenance fees, etc. if agreed). The setting of the resale tariffs for third-party customers is exclusively incumbent upon the RESELLERS.

2.5. Calls will only be connected to destinations in the national and international telephone networks that have been previously agreed. Due to the risk of misuse, calls to special telephone numbers (0190/0900, information services (118xy), premium services etc.) are explicitly excluded from switching, unless their switching has been explicitly agreed with the RESELLER.

2.6. Further particulars of service provision are defined under the subparagraphs 3...4...,and 7.

3. Quality of Service

3.1. Mox is entitled to change the basic technical requirements of the agreed service at any time, unless this would lead to an impairment of the agreed telecommunications services and the changes of the technical requirements were not reasonable.

3.2. The Mox network shows an average availability of 97.5%, measured over all the connections made available to the RESELLER over a period of 365 days.

4. Forecast Method

4.1. The amount of PINS (card value) given to the RESELLER in the first contract month will be determined in advance. A contractual obligation of Mox only exists within the scope of the agreed forecasts. A temporary provision of capacities higher than the forecast does not institute a claim against Mox to provide this in

the future.

4.2. Mox reserves the right to demand from the RESELLER at the beginning of each quarter the agreement on a forecast for the following quarter with information on the desired amount.

5. Rights and Duties of the RESELLER

5.1. The RESELLER is entitled to sell to third-party customers the telecommunications services provided by Mox in his own name and on his own account. The RESELLER is not authorized to represent Mox legally. Above all, the RESELLER is not authorized to make use of the name "Mox" and the brands of Mox or to use them for publicity purposes.

5.2. Besides technical arrangements, the RESELLER is also responsible for the marketing, the design and the sale of the calling cards to third-party customers. The RESELLER will also undertake the manufacturing of the calling cards. In particular, the PIN needed for authorization will be set up by the RESELLER. The RESELLER is obliged to publish resulting charges, relevant to the end consumer (retail price, tariffs, increment charges/billing and all other charges) clearly and precisely.

5.3. With a special agreement, the RESELLER can entrust Mox with the manufacturing of the calling cards.

5.4. The RESELLER is entitled to activate the PIN numbers and, at the same time, the calling cards, according to subparagraph 7. The activation of the PIN numbers entitles Mox to provide services and to charge them to the RESELLER, even in the case that third parties use the calling cards not in accordance with contract (misuse, e.g. stolen or otherwise lost cards).

6. Co-operation

6.1. Both parties assure that, besides the self-evident observance of relevant regulations, no annoying, obscene or other calls conflicting with national policy and public morals are made with the help of the provided telecommunications services.

6.2. In regularly held meetings (normally four times a year), both contracting parties will present a review on the quality of the respectively provided services, and will adapt them, if required, within the scope of the technical and operational facilities.

6.3. Each party is to appoint a responsible project manager. Both project managers are to work together on winding up the contract and are the first contact in case of problems. In case the project manager is unable to attend, each party is to appoint a substitute. If problems cannot be solved by the project managers within 2 weeks after their arising, the project managers will entrust the solution of the problems to their respective business management.

7. Activation and Deactivation

7.1. With Mox, the RESELLER can activate the Calling Card Services (respectively his “calling cards”) independently.

7.2. To do this, Mox allows the RESELLER a direct access Mox’s service platform. The service platform shows an average availability of 97.5 % measured over a period of 365 days.

7.3. Unless otherwise explicitly agreed with Mox, an activation is only possible if the RESELLER has paid the services in advance according to the current Mox price list.

7.4 Deactivation for cards when “reselling on a per minute basis” are free of charge in particular cases or may be carried out by the RESELLER as the case may be.

7.5 When ‘reselling on an invoiced card value basis’, Mox may accept deactivations on a goodwill basis. In such cases, Mox is entitled to demand a deactivation charge (for testing the card, deactivation and administration) at EUR 0.50 per card, albeit with a deactivation request worth at least EUR 150.00. A credit note is issued in goodwill cases, as previously mentioned, for any unused cards. Cards which have already been used are excluded from the credit note for deactivation. Furthermore, no credit note will be issued for any cards, which have not been used and for which 12 months or more have passed since first activation.

8. Compensation and Settling Accounts

8.1. The RESELLER pays for using the Mox services according to the respectively current price list. Mox is entitled to adjust the price list in accordance with the RESELLER.

8.2. If not otherwise agreed, the payment for the services (respectively the “cards”) has to be made before the activation. The payment has to be made to the account respectively named in the invoice.

8.3. Objections of the RESELLER to invoice amounts have to be substantiated in writing. Regardless to objections raised by the RESELLER against the invoices, the RESELLER is obliged to pay the invoice amount. The RESELLER can raise any kind of objections within a cut-off period of 4 weeks from the date of invoice in writing.

8.4. {Data on single connections (itemized bills) and Call Detail Records (CDRs) will be provided by Mox and made available to the reseller in accordance with the regulations on data protection.

8.5. All prices named in the respective price list do not include VAT, unless otherwise agreed. The VAT will be invoiced separately according to the rates and the provisions respectively in force. When delivering PINS into the community, the RESELLER is to make his valid VAT identification number available before the first activation.

8.6. A RESELLER’s set-off is only possible with uncontested or non-appealably set claims.

8.7. Without prejudice to demand for payment, the RESELLER comes into delay automatically after 10 days from issuing the invoice.

9. Warranty

9.1. Both parties ensure that their contractual services are provided professionally and properly.

9.2. During the contract period, they are legally bound to take all reasonable measures that are necessary to maintain or restore the possibility to use the facilities operated by the parties.

10. Force Majeure

10.1. In case of events due to force majeure that impede or make it impossible for the parties to provide services, the party concerned is entitled to postpone the accomplishment of her obligations, payment liabilities excluded, for the duration of the impediment and a reasonable initial period.

10.2. Strikes, lockouts or other circumstances, as long as they are unpredictable, grave and not caused by the party concerned will also be considered to be force majeure. The party concerned will immediately inform the other party on such an event, as far as this is possible and reasonable under the given circumstances.

It is also an event due to force majeure if the advance performance of a third party (for instance the provision of point-point or dial connections by line suppliers) is impaired or broken down.

11. Duration and Termination of Contract

11.1. Unless otherwise agreed, the contract has a duration of at least 12 months from the first activation by the RESELLER. The contract will be automatically extended for 12 months, if it is not terminated in writing by one of the parties within a period of 2 months before the original or extended expiration of the contract.

11.2. The right of termination in exceptional cases is not affected by this. Apart from the following reasons, particularly a gross violation of accepted contractual obligations, the permanent incapacity of a party to accomplish her contractual obligations, or the institution of insolvency proceedings against the property of a party are considered as important reasons. Furthermore, Mox considers it a reason for notice, if:

- the RESELLER repeatedly fails to reach the forecast (see also no. 4) or the maintenance of the service is economically no longer justifiable for Mox by reason of e.g. insignificance.

- the RESELLER tries to activate the use of cards that, against the provisions of the contract, have not been paid,

- the RESELLER's payments are, in spite of further demands, delayed for more than 5 working days after the reception of the demand for payment,

- . the RESELLER tries to lure Mox customers away.

12. Data Privacy and Confidentiality

12.1. Both parties are bound to keep to the relevant provisions of data privacy laws. The provisions on the secrecy of telecommunications have to be cogently observed by both parties.

12.2. Both parties are obliged to treat all the knowledge obtained in the context of the contractual relationship as confidential. All disposed documents and other information that is either marked confidential or that is recognizably to be regarded as confidential, because of a recognizable interest of one of the contracting parties or of a third party (like e.g. prices and conditions), are

considered as knowledge to be treated in such a way. It is permitted by way of exception to pass on confidential documents and other information to external consultants of a party in the context of a consultancy request, provided that the other party previously agreed to this in writing.

13. Liability

13.1. If one of his own customers asserts a claim against the RESELLER because of a pecuniary loss and Mox is internally liable, then Mox is liable up to the amount of 12,500 Euros at the most per case of loss for each third-party customer, according to Art.7 of the regulation on telecommunication customers' protection. The liability against the entirety of the Mox customers is limited to the amount of 10 Million Euros per damage causative event. If the amount that has to be paid to more than one customer because of the same damage causative event exceeds this limit, the indemnification will be cut down in the same ratio in which the sum of all the claims for indemnity stands to the limit. The limit is ruled out, if the damage was caused intentionally.

13.2. It is applicable to all pecuniary loss, that the liability of Mox is limited to the amount of 12,500 Euros per case of loss.

13.3. In case of other damages, Mox is only liable for itself and for its vicarious agents, no matter on which legal ground, if an essential contractual obligation (the so called cardinal obligation) was culpably infringed in a manner that endangers the contractual purpose, or if a damage was caused negligently or deliberately. If the culpable infringement of a cardinal obligation was neither caused grossly negligently nor deliberately, the liability regarding the amount is limited to such damages typical for the contract, that have been reasonably predictable at the time of the conclusion of the contract. As a predictable damage, an amount of 12,500 Euros is assumed.

13.4. The liability of Mox for warranted qualities or personal damages, and those according to the provisions of the law on product liability remain unaffected. As far as the liability of Mox is effectively excluded or limited, this also applies to the personal liability of employees, other team members, bodies, representatives and vicarious agents of Mox.

14. Transferability

14.1. This contract is exclusively valid with the RESELLER. The RESELLER is not entitled to transfer the rights and obligations of this contract to a third party without the written approval of Mox. Additionally, the RESELLER is not entitled to transfer the exercise of rights and obligations from this contract to a third party. This prohibition of assignment is only invalid if the provision of the

Art. 354a of the Commercial Code is applicable in favour of the RESELLER.

14.2. To fulfil its obligations from this contract, Mox is entitled to assign third parties with the provision of service.

15. Final Provisions

15.1. Alterations and supplements to this contract, including alterations of the written form clause itself, must be made in writing in order to be valid.

15.2. In the case that single provisions of the general terms and conditions or other supplementary agreements are or become invalid as a whole or in parts, or in case the contract contains loopholes, the effectiveness of the other provisions remain unaffected. In place of the ineffective or no longer valid provision, such an effective provision is considered as agreed, which objectively considered comes preferably near to the economical and legal purposes of the ineffective or lacking provision.

15.3. The contractual relationship and all actions in connection with it are subject to German law, as it applies to domestic contractual partners excluding the UN Sales Convention.

15.4. The place of jurisdiction for all disputes in connection with this contract is Ratingen, Germany, insofar as no other place of jurisdiction is agreed.

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