

## outbox AG – General terms and conditions

### 1. Scope

All services or actions provided by the outbox corporation (herein after called outbox) shall be governed exclusively by its general terms and conditions. outbox's terms and conditions shall apply exclusively; any conflicting or aberrant general terms and conditions (or those of its resellers) shall only apply if explicitly approved by outbox in writing.

### 2. Basic Legal conditions

As far as no other agreement has been made, it is the reseller's exclusive responsibility to follow and monitor the legal, regulatory and contractual basic conditions for the use (own use and third-party use) and distribution of the services provided. It is the reseller's exclusive responsibility to obtain the official permissions required for commercial use and to register where necessary (e.g. registration as voice service provider at the German Federal Network Agency [Bundesnetzagentur]).

### 3. Services

**3.1.** outbox performs its obligations as technical service provider solely for its resellers. outbox is authorised to make use of third-party services in order to meet its contractual obligations. outbox does not offer any support services to the reseller's customers or subresellers.

**3.2.** outbox guarantees the reseller a 98.5% availability (annual average) of the services provided within this agreement. In this regard availability is defined as the agreed upon option to use the provided outbox services. If the reseller uses several accounts (own use or third-party use), the percentage of availability is calculated from the annual average of all accounts held by the reseller.

**3.2.1.** Interruptions or limitations of services caused by force majeure or any reason beyond outbox's sphere of influence shall not be included in the calculation of the annual average availability (e.g. malfunction of the internet's infrastructure caused by DoS attacks).

**3.2.2.** The answer/seizure ratio (ASR) for the termination of calls (domestic and foreign) shall also be excluded. ASR is measured by its respective annual average for the network-covered area selected by the customer.

**3.2.3.** The use and application of ISDN services within the network of the outbox corporation is not possible.

**3.2.4.** Availability periods shall be excluded when availability is limited due to maintenance and/or improvement works of the services or if limitations and/or interruptions are out of outbox's sphere of influence. outbox informs its reseller if it expects planned maintenance works to affect provided services. Inspection windows are classified as follows:

Influence	Information	Inspection window
Service may be limited	None	Mon – Fri 12:00 a.m. – 6:00 a.m.
Service is limited	two weekdays prior	Mon – Fri 12:00 a.m. – 6:00 a.m.
Service may be limited	two weekdays prior	1 <sup>st</sup> Tuesday of a month 12:00 a.m. – 7:00 a.m.
Service may be limited	None	Sundays 01:00 a.m. – 03:00 a.m.

**3.2.5.** The customer or reseller determines the user-provided CallerID and is hence responsible for the correctness of the submitted numbers. outbox only guarantees the transmission of the user-provided CallerID if the customer uses CallerIDs common within the German fixed line network. This regulation also applies for network-provided CallerIDs if used by the reseller.

**3.3.** CDR data provided by outbox shall solely fulfill accounting purposes between outbox and its reseller and not those of the reseller and his customers. CDR data of those accounts, that log on to the outbox-SIP-server are excluded from this regulation. The supply of CDR data takes place via FTP-server, outbox shall provide access data for the FTP-server. Those data is to be kept under lock and key.

### 4. Performance and duties of the Reseller

The reseller acts on his own behalf and is solely responsible towards third parties. The reseller does not represent outbox - particularly not in respect to any legal relations - and is not authorised to deliver or accept statements for or against outbox. Any linkage in terms of incorporation shall neither be executed nor requested by both parties in the context of this agreement.

The login-data (username/password) given to the reseller in order to use the outbox-system (particularly the web-interface) clearly identifies the reseller at every login. The reseller is obligated to keep its login-data secure and protected from the access of third parties.

The reseller is obligated to immediately inform outbox in case of any knowledge or assumption of circumstances that give reason to suspect

knowledge or misuse of its login-data by third parties. If the reseller grants access to the login-data to any third party, the reseller is liable to any misuse on the part of third parties. The reseller acknowledges, that the use of the services covered by the contract is generally possible and expedient with a broadband-DSL connection only.

The reseller refrains from mentioning outbox as provider of the services covered by the contract, as co-operation partner or in any other context, unless the reseller is legally obligated to do so.

The reseller is particularly forbidden to use „outbox“ as a brand, title or especially the name within its course of business. outbox however is legitimate to publish names, addresses (including web-addresses) and phone numbers as reference for the products used by the reseller. The reseller is legitimate to revoke the approval any time. This revocation must be sent in writing via fax or mail. outbox will remove reseller's data from all publications conducted and attended by outbox within five weekdays upon acknowledgement.

All phone numbers provided by outbox can be ported within effective legal requirements. If phone numbers are ported at the reseller's and/or its customer's initiation prior to expiration of the six-month holding period (outbox's holding period), outbox shall be entitled to a fixed compensation. The amount of this compensation is the sum of the base charge of the respective phone number for a period of six months. The compensation does not include fees paid to outbox for ported phone numbers during the continued holding period.

outbox also charges connection fees for failed connection attempts ("dialing up" and "line busy"). outbox shall assume that the connection was successfully established if dial-up was successful in at least 50% of the cases and that the contractual partner can be charged with the connection fee. Against this background following agreement is made:

If a connection fee cannot be charged (during a calendar month in which more than 50% of the cases a connection could be established ("dialing up" and "line busy")) due to a lack of successful connections and if it is beyond the sphere of outbox's liability, it is the reseller's exclusive obligation to immediately ensure the assumed ratio between successful connection attempts and successful connections. Furthermore the reseller is obligated to pay a fee of 0,03 € plus value-added tax for all unsuccessful connections of the respective calendar month, if the reseller/customer did not improve the ratio of uncharged successful connections after requested in writing by outbox.

### 5. Performance of liability

If the reseller fails to comply with his obligation to co-operate as requested by this contract and its appendix, outbox shall be entitled to retain respective services until compliance is given. During the exercise of retention of services on the part of outbox, the reseller is nonetheless obligated to payments.

### 6. Support

outbox performs support services if requested by the reseller. The charges amount to 37,50 € per started WU (work unit) during common service hours (Mon-Fri 09:00 a.m. – 05:00 p.m. – except for the bank holidays) and 75,00 € per started WU for off-time requests. One WU equals 15 minutes. Aforementioned prices are plus value-added tax.

### 7. Provision of telephone numbers

**7.1.** outbox provides the reseller with special rate numbers, e.g. 0180, 0700, 032, as well as area code numbers if available according to agreement and pricelist. The reseller is obligated - especially using area code numbers - to only store certified data for customers, for whom the phone numbers were activated. Validation of data can be made by accessing the customer's ID, for example. The reseller asserts to meet its obligation by conclusively storing the customer's data in the outbox-system.

**7.2.** outbox also provides the reseller with international telephone numbers of various prefix ranges. It is the reseller's/customer's exclusive obligation to comply to regulations for the acquisition of phone numbers of the respective countries. outbox will inform the reseller about regulatory limitations and conditions to the best of knowledge, this information however makes no claim to be complete. The reseller shall be liable and directly responsible in case of disconnection of international telephone numbers due to violation of regional law or regulatory conditions. Any claims against outbox are excluded.

**7.3.** Telephone numbers administered by outbox may be cancelled, except when otherwise stipulated, by both parties within a period of six weekdays, if no other cancellation period has been agreed upon in writing. outbox does not guarantee availability of phone numbers from third party service providers administered by outbox, whereas outbox is always keen to establish and ensure long-term availability.

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### 8. Data protection

Call detail record (CDR) data collected by outbox will be deleted 80 days after transferring records to its reseller. The reseller shall relinquish, irrespective of legal basis, any objection against the correctness of datasets deleted on the due date. outbox accepts this relinquishment. outbox gives information about the data collected for the reseller within the scope of legal demands, according to §§ 90 ff. StPO, particularly § 100g StPO, or §§ 111 ff TKG or other mandatory regulations.

### 9. Third-party assignment

outbox is authorised to make use of third-party services in order to meet its obligations resulting from this agreement. outbox is authorised to impart the reseller's information to third parties, if required from a third party in order to perform its services. outbox ensures the behaviour of the third party according to aforementioned regulations in terms of data privacy. outbox is authorised, yet not obligated to continuously survey compliance with aforementioned obligations by the third party.

### 10. Invoice & Connection fees

**10.1.** outbox's connection fees are charged based upon call time. Call time is measured from the moment of connection to the moment of disconnection. Billing is based on a 30/10 increment meaning that the first thirty seconds are invoiced fully, the following timeage in ten-second intervals. outbox is authorised to adjust the tariff for connection fees. Adjustments take effect eight calendar days after  
a) arrival of the updated tariff list at the reseller via e-mail or  
b) notification of the reseller in the login area of the web-interface.  
Information on current charges per minute can be taken from the respective tariff list.

**10.3.** outbox only uses the telephone number's area code in order to identify the destination network for billing purposes. outbox will not check, which network provider actually provides the number.

**10.4.** Reseller's objections against invoiced entries have to be reported and substantiated to outbox within 14 calendar days in writing. Failure to file timely complaint will count as acceptance.

**10.5.** In case of any disagreement, the reseller is obligated to contact outbox first and to set an appropriate time limit of at least ten weekdays for clarification. The reseller shall not order a return debit note or similar before the expiration of the time limit.

**10.6.** For billing purposes of the German fixed line network, it is assumed that the percentage of so-called OLO-traffic (Other Local Operators) does not exceed 15 % of the monthly average. In case of exceedance of this percentage, outbox is either authorised not to terminate the exceeding OLO-traffic and to decline with respective error message or to implement an extra charge of 0,01 € plus value added tax per OLO-call minute. This passage will not be applicable if outbox and the reseller/customer have made a different contractual arrangement in terms of OLO in which the abrogation of this agreement has been formally recorded.

**10.7.** outbox is authorised to adjust the international area code of specific countries and consequently the associated invoicing without compliance at any time, if the area code of the affected country changes based on the ITU (International Telecommunication Union) list of international area codes. outbox will inform its resellers/customers immediately via e-mail in case of such changes.

### 11. Liability / force majeure

outbox shall be liable in the event of malice aforethought or gross negligence by its legal agents and their assistants as well as due to the lack of formally guaranteed agreed characteristics, as well as for damage from culpable injury or life, limb or health of the reseller/customer. With slight negligence, the liability shall be limited to the typical and foreseeable loss, at most the amount of the previous month's turnover, yet not exceeding the amount of 25.000,00 € per contractual term. According to § 7 TKV, both parties are liable for financial damage of the reseller's end customer with the amount of at most 12.500,00 € per affected end customer, wherein the liability is limited to 10 mio € per event. If the amount of the individual loss exceeds the upper limit, compensation is reduced to the sum of claims relating to the upper limit.

outbox is generally not be liable for secondary damage (e.g. loss of profit, indirect damage). Liability is excluded if legally admissible. Liability according to Product Liability Act will remain unaffected. Reseller's liability claims against outbox, regardless of its legal foundation, will become time-barred 12 months after the injured party takes notice of the damage. This does not apply for deliberate contract violation, deliberate or negligent damage of life, limb and health and for liability according to Product Liability Act.

None of the parties is responsible for delay of contractual obligations, if that delay is due to force majeure. This applies particularly in case of fire, strike, war, riots, requirements and/or orders by civil or military authorities, natural phenomena, court orders; unavailability or shortage of resources, material or equipment, loss or delay of supply by sellers of suppliers, delay of transport, provided that delay is due to force majeure. This shall not apply for monetary obligations of one party in the course of compliance with contractual obligations. In case of force majeure, the

affected party shall be released from its contractual obligations and granted additional respite to comply with its contractual obligations for the duration of the event. The party affected by force majeure shall immediately inform the other party in writing and immediately resume its obligations upon restoration of the original state. If the reseller violates any legal or regulatory arrangement of this contract or these terms and conditions and if this violation results in any penalty for outbox or its suppliers or its assistants, outbox shall be authorised to pass on the charges to its reseller.

### 12. Interruptions of service & solution of interruptions

In case of any interruption of service, the reseller shall inform outbox's on-call service, which is available 24/7. Any interruptions are analysed and, if possible, resolved by remote maintenance. outbox's remote maintenance service coordinates all tasks necessary. Measurement of performance features shall be suspended, if interruptions are caused by third-party lines or equipment (administered by the reseller, its customer or its supplier). If interruptions occur within outbox's sphere of control or range of performance by third parties commissioned by outbox, outbox will attempt to resolve the disturbance within 36 hours upon receipt of failure report and upon reseller's compliance to all obligations to co-operate in this regard. Any interruption has to be announced prequalified by the reseller. Prequalification shall be executed at the reseller's own expense. Additional expenses in the context of resolution by outbox, resulting from faulty, incomplete or missing prequalification form are to be paid by the reseller to outbox depending on expenditure of time.

### 13. Assignment / Charging

None of the parties is authorised to assign entitlements against each other resulting from this contract to third parties. Third parties are only excluded from this ban of assignment, if affiliated with the respective party in terms of §§ 15 ff. AktG, provided that implementation of contractual obligations by outbox or its reseller do not require special permits that do not exist on the part of the affiliated company. Any claim of withholding of contractual requirements are entitled to parties only within the scope of own demands resulting from this contract. Counterclaims against claims from any party or compensation for expenses do not entitle to set-off or omit due payments except for undisputed or legally binding claims.

### 14. Subject of change

**14.1.** outbox shall be authorised to change its general terms and conditions, provided that changes are reasonable and occur in consideration of reseller's interests. outbox shall inform its reseller/customer of the wording of the changed terms and conditions via e-mail within an appropriate period before the intended changes come to effect.

**14.2.** Changed terms and conditions between outbox and its reseller take effect if the reseller/customer does not object to the change within a period of two weeks. outbox shall inform the reseller/customer of the effects of a defaulted objection in its notification of change.

### 15. Exclusiveness / severability clause

**15.1.** Changes or additions of these general terms and conditions – including deviation of this formal regulation – are to be made in writing. §126 Abs. 3 BGB shall not apply.

**15.2.** These general terms and conditions shall exclusively be subject to substantive law of the German Federal Republic. Regulations according to United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

**15.3.** Place of jurisdiction and place of performance shall be Cologne, Germany.

**15.4.** If individual provisions of the contractual agreements – including the conditions of business – should prove to be ineffective, this does not affect the effectiveness of the remaining provisions. The parties shall without delay replace the ineffective provisions by others which as closely as possible approximate to the intentions of the ineffective provisions.

**15.5.** If reseller's/customer's assets are subject to insolvency proceedings, outbox shall be authorised to terminate the contractual relationship without further notice or to demand securities (e.g. by bank guarantee) in the amount of the recent three monthly averages as collateral.

Cologne, January 1<sup>st</sup>, 2010

outbox AG  
Managing board