

## Supplementary General Terms and Conditions for IoT with Tele2 M2M connectivity as a Service of Kapsch BusinessCom AG

### 1. General

The present Supplementary General Terms and Conditions for IoT (with Connectivity) Services (hereinafter referred to as GTC-IoT) shall, together with the respective service ticket and the other annexes and conditions of the underlying offer of Kapsch BusinessCom AG, constitute the sole contractual basis (hereinafter referred to as service agreement or agreement) of Kapsch BusinessCom AG 1120 Vienna, Wienerbergstraße 53 (company register n° 178368g) (hereinafter referred to as “Kapsch”), and shall govern the performance of IoT services in each case where the service includes the provisioning of connectivity via cellular network technology (hereinafter referred to as “service”) for the principal.

The GTC-IoT are a specific supplement to the General Terms and Condition for Service Agreements of Kapsch BusinessCom AG (GTC-Service). In the case of a conflict between the GTC-IoT and other terms of the agreement (e.g. the GTC-Service), the GTC-IoT take precedence, except where stated differently in the GTC-IoT.

### 2. Scope of performance

**2.1** Kapsch shall perform services for the principal in compliance with the respective Service Level Agreements (SLA) which amongst others determine manner, quality, scope, system requirement of the services. Kapsch shall be entitled to adapt services to the current state of the art provided that the agreed service levels are still achieved. With respect to the connectivity part of the service, the parties agree that no service level is in place.

**2.2** Kapsch will perform its obligations in this Agreement with the reasonable skill and care of a competent service provider and will do its utmost to deliver the services in such way they conform in all material respects to the service description (as amended from time to time. The services regarding connectivity are described in more detail in the Tele2 IoT Product and Service Description (as amended from

time to time) which can be requested from Kapsch.

- 2.3** Kapsch shall be entitled to adapt the scope of performance from time to time, especially as required by legislation or other relevant authority, with an appropriate period of notice, provided that the change is reasonable, taking into consideration the interests of the principal. If changes are made to the disadvantage of the principal, the principal shall be entitled to a termination right for important reason at the time of effectiveness of the change.
- 2.4** Kapsch undertakes to use all reasonable endeavors to fulfill any accepted and confirmed order as soon as reasonably practicable and if possible by the requested dates for delivery/commencement.
- 2.5** Kapsch does not guarantee the availability of any specific roaming partner or service provider in any part of the coverage area (as amended from time to time) and principal acknowledges that any of such roaming partners or service providers is liable to change at any time. If a roaming partner is deemed to be not suitable for whichever part of the coverage area, Kapsch shall be entitled to respectively amend or reduce the coverage area. Kapsch undertakes to inform principal thereof as soon as possible. Notwithstanding the termination rights triggered by such amendment or reduction of the coverage area as set forth in section 5.4 below, such amendment or reduction of the coverage area does not give rise to claims of the principal whatsoever
- 2.6** Kapsch does not guarantee the availability or any quality of the connectivity part of the service neither with nor without a prior testing on-site. Even after a successful on-site testing, technical circumstances outside of Kapsch's control might occur and reduce the service quality or the availability or render the provisioning of the connectivity part of the service impossible (e.g. construction works, sources of interference). Kapsch therefore does not guarantee any service quality or availability of the connectivity part of the service and is not liable for damages caused by reduced service quality or availability due to a reduced quality or non-availability of the connectivity.
- When evaluating if an agreed service level for the services have been met, outages or reduced availability of the connectivity part of the service will be considered as having been accepted by the principal already upfront so no negative consequences can arise for Kapsch from this fact.
- 2.7** Kapsch will provide the service consistent with prevailing industry standards in a manner that endeavors to minimize errors and interruptions in the service. The service may be temporarily unavailable for scheduled maintenance, either by Kapsch or by third-party providers, or for other causes beyond Kapsch's reasonable control. For the avoidance of doubt Kapsch is not liable for any

unavailability of the services under the above circumstances.

- 2.8** The principal acknowledges that the provision of the connectivity part of the service is subject to the geographic extent of the service coverage and local geography, topography and/or atmospheric conditions and/or other physical or electromagnetic interference that may from time to time adversely affect the provision of the connectivity part of the service in terms of line clarity and call interference.
- 2.9** Kapsch may, where reasonable, from time to time and without notice and without prejudice to its rights hereunder, suspend any service and at its discretion disconnect a SIM card in any of the following circumstances, provided that it shall use reasonable endeavors to restore the services and reconnect the SIM card as soon as reasonably practicable:
- a) during any technical failure, modification or maintenance of the mobile network; and/or
  - b) if the principal fails to comply with the terms of this agreement after being given written notice of its failure (including but not limited to failure to pay any sums due hereunder) until such failure to comply is remedied; and/or
  - c) if the principal fails to comply with the terms of the Network Communication Policy in section 7 below until such failure to comply is remedied; and/or
  - d) if the principal causes anything, which in Kapsch's reasonable opinion may have the effect of jeopardizing the operation of the mobile network or the services, or the services are being used in a manner prejudicial to the interest of the principal and/or Kapsch; and/or
  - e) due to an emergency or upon instruction by emergency services or any government or appropriate authority or for the principal's own security; and/or
  - f) if the SIM card shows an unusual transmission behavior (e.g. significantly increased data volume, number of link connections or link disconnections or amount of signaling).

The results of an initial test at the principal's expense or a transmission behavior estimation are used as the basis for the evaluation if a transmission behavior is unusual. And/or

- g) if Kapsch has reasonable cause to suspect fraudulent use of the SIM card or the device, or either are identified as being stolen. Kapsch undertakes to inform principal of such suspension as soon as possible. Device means the wireless device, or equipment incorporating a UICC (Universal Integrated Circuit Card), Communications Module and firmware which controls the behavior and application logic. Equipment means the device or any other equipment approved for connection to or use with the mobile network including any software and documentation.

- 2.10** Kapsch is not responsible for damages caused by the suspension/disconnection. During any period of suspension arising from the circumstances detailed in section 2.9 the principal shall remain liable for all charges levied in accordance with this agreement.
- 2.11** As a result of the technical solution for providing the services in accordance with this agreement, decoupling as defined in Article 4 Roaming Regulation, would if applied have great impact on the stability and the quality of the service. In order to ensure that the service is sufficiently delivered and functioning the principal must not neither commercially nor technically allow an alternative roaming provider other than the one chosen by Kapsch on the SIM cards provided by Kapsch. Furthermore the commercial and technical solution of the service would be negatively affected by the usage of a local data roaming provider as defined in Article 5 Roaming Regulation. In order to avoid such potential service deterioration the principal is prohibited from choosing separate sale of data from other roaming providers than from the provider chosen by Kapsch. For avoidance of doubt, the principal actively chooses to use the provider Kapsch has decided on as the sole roaming provider for the performance of the services in accordance of this agreement, during the full duration of this agreement.  
SIM cards remain in the property of Kapsch and the principal shall hand them back to Kapsch when the respective agreement is terminated.

### **3. Efforts of the principal (cooperation obligations)**

- 3.1** The cooperation obligations of the principal primarily result from the respective SLAs and shall prevail the present document in case of discrepancies. Insofar as these do not provide any stipulations, the following cooperation obligations shall anyhow apply.
- For the performance of the services the principal shall grant Kapsch the necessary access to the system as well as an access to remote control inclusive of any and all possibly necessary software user licenses and access authorizations. Moreover the provision of entrance/access possibilities (system location, access cards, removal of furniture, material and the like, etc.) and access possibilities (remote control, data transfer facilities, call numbers, user names, passwords, rights, lines etc.) as well as the immediate notice of any changes of such. Insofar as such an access by Kapsch is required for the performance of the service, any modification may be done

only after clearance with Kapsch;

- Immediate notice to Kapsch (service center see in product listing) of any and all disturbances including a most accurate disturbance description as well as provision of any and all information necessary for the provision of the service;
- Provision of evidence of the cause of disturbance in case of failures resp. dysfunctions of a system supervised by Kapsch, if systems have been integrated into the system environment of the principal or extended by third-party use, auxiliary equipment or by additionally installed software. Kapsch does not assume any responsibility for circumstances where the device is provided by the principal and the incident is not attributable with absolute certainty to the sphere of Kapsch;
- The principal shall meet all his cooperation duties on time in the way that Kapsch is not obstructed in the performance of its services. The principal shall ensure that Kapsch or third parties commissioned by Kapsch will be granted necessary access to the premises of the principal for the performance of the services. The principal shall be responsible for the fact that the employees of his connected undertakings participating in the fulfilment of the agreement or third parties commissioned by him do appropriately cooperate in the fulfilment of the agreement;
- training of the principal's personnel that use the service;
- in the course of incident resolution supplying personnel with the necessary technical skills and authority to support the resolution process;
- providing ten (10) days notice of any planned work by principal which may affect the services; and
- providing information to Kapsch as to any major changes (eg. change or upgrade of hardware and software, significant volume changes in SIM activation, ordering or traffic).

**3.2** Certain elements of the services are dependent on the principal having suitable infrastructure available and/or using an appropriate device and in the event that the principal is unable to provide suitable infrastructure, or fails to use an appropriate device, then

- a) some or all of the services may not function correctly;
- b) Kapsch reserves the right not to provide the principal with the services; and
- c) Kapsch shall have no liability for the principal's inability to receive the services.

- 3.3** If Kapsch does not sell or provide the devices to the principal, the principal shall ensure, via testing or some equivalently comprehensive means that the SIM cards provided by Kapsch are compatible with the devices prior to the incorporation. It is the principals responsibility to test the SIM card and device.
- 3.4** If Kapsch does not sell or provide the device to the principal, the principal warrants and undertakes to ensure that each device will have its own, unique, and appropriate, IMEI Number. IMEI means an International Mobile Equipment Identity Number. The principal warrants that the device sends the IMEI number to the Kapsch network and to the Kapsch SIM card in a correct manner.
- 3.5** If Kapsch does not sell or provide the device to the principal, the principal warrants and undertakes to ensure that each device used by the principal shall comply in all material respects with the latest applicable issues of european and international standards to the extent such compliance is required by european or international legislation, law or regulation.
- 3.6** The principal undertakes that throughout the term of the Agreement it will, and will take all reasonable steps to ensure that its employees will:
- a) comply with and use any service in accordance with this Agreement including any Annex;
  - b) notify Kapsch immediately (and to confirm in writing) on becoming aware that any device or SIM card has been lost or stolen or that any person is making improper or illegal use of the device, SIM card or the services. The principal will be responsible for any charges incurred as a result of unauthorized use of any device, or SIM card, or the information contained within a SIM card, until Kapsch has received a request from the principal to suspend the services to that device or SIM card;
  - c) not use the services fraudulently or in connection with a criminal offence or for the purpose of sending unsolicited text messages or any material which is offensive, abusive, indecent, defamatory, obscene or menacing, a nuisance or a hoax or which breaches any person's intellectual property rights or rights of privacy or is otherwise unlawful;
  - d) comply at all times with such reasonable operational requirements of Kapsch as may be notified to the principal from time to time;
  - e) not act or omit to act in any way which will or may bring Kapsch into disrepute or place Kapsch in breach of any licenses, authorizations, provisions of law or regulation and/or directions applicable to Kapsch;
  - f) not directly or indirectly be involved or knowingly recklessly or negligently permit any other person to be involved in any fraud and shall immediately upon becoming aware of any such fraud notify Kapsch and comply with such procedures and rules adopted by or binding on Kapsch from time to time concerning such

fraud;

g) store any SIM cards it receives prior to activation in a suitable manner to ensure that the SIM cards are not harmed or damaged in any way; and

h) shall not perform services on the contractual system himself nor will he commission third parties with such.

**3.7** Should the principal be responsible for an incident, Kapsch reserves the right to charge the principal a fee for the fault resolution process carried out according to the current rates.

**3.8** If the principal fails to meet his cooperation duties on the agreed dates or to the agreed extent, time schedules for the services to be performed by Kapsch shall extend appropriately. Additional expenses and costs caused hereby for Kapsch shall be reimbursed by the principal separately at the currently valid charge rates.

**3.9** The principal shall ensure that his employees and third parties attributable to him treat with appropriate care the facilities and technologies applied by Kapsch as well as any possibly allocated assets; the principal shall be liable vis-à-vis Kapsch for any damage.

#### **4. Acceptance of orders/minimum commitment/risk of loss**

**4.1** Kapsch may, in its sole discretion, accept or refuse an order by the principal by sending an order confirmation back to the principal. Kapsch shall under no circumstances be obliged to acknowledge, accept or confirm an order.

**4.2** Minimum SIM level commitments:

The principal hereby commits that SIM cards shall be activated at the end of 6 months (activation grace period) counted from the date a SIM card was received by the principal. Each SIM card shall stay activated for at least 36 months (minimum activation term). Activation means the first enablement of the SIM card to transmit data. Depending on the configuration, there may be a specific volume of data for testing, in which case the card will not be activated until this limit is exceeded.

Should the principal has failed to activate the SIM card by the time the activation grace period ends, Kapsch is entitled to activate and start billing based on the rate plan of the respective offer. The billing will take effect from the first billing cycle after activation. Should the principal inactivate a SIM card before the minimum activation term is finished, Kapsch will bill the SIM card fee for the rate plan assigned to the SIM card through the end of the minimum activation term.

- 4.3** Risk of loss or damage to the SIM cards will transfer to the principal upon delivery of the SIM cards in accordance with applicable Incoterms. If no Incoterm is defined in the offer, deliveries are done FCA Incoterm. Kapsch is not responsible for any loss or damage to SIM cards once delivered.

## 5. Term and termination

- 5.1** Any and all stipulations regarding term, termination resp. waiver of termination, early cancellation of the service agreement and fees primarily result from the respective underlying offer. If the respective offer does not provide (specific) regulations, the following provisions shall anyhow apply.
- 5.2** Subject to a separate stipulation in the service ticket, which prevails all other contract documents, the agreement shall come into force upon signature by both contracting parties, upon provision of the service by Kapsch at the latest and shall be concluded for an indefinite period of time. It may be terminated by either party giving 3 months written notice by registered letter, to the end of the minimum term at the earliest however.
- 5.3** If not agreed otherwise in the offer, the minimum term shall be 36 months from the date of activation of a SIM card for each SIM card. During the minimum term, the principal may only terminate the agreement regarding the respective SIM card for an important reason.  
The principal may only terminate services which are not considered a prerequisite for a service which itself is not terminated.
- 5.4** The following constitutes an important reason for termination
- a) by the principal if the coverage area is amended or reduced due to the fact that a roaming partner is deemed to be not suitable for whichever part of the coverage area; or
  - b) by Kapsch if the principal is in default with payment for more than 60 days, or if material parameters of service performance have changed and Kapsch therefore cannot be expected to continue the services from an economic point of view; or
  - c) by either party if
    - aa) the other party is in material breach; and (i) the breach is capable of remedy and the party in breach shall have failed to remedy the breach within thirty (30) days of written notice specifying the breach and requiring its remedy, or (ii) the breach is not capable of remedy or the breach is that material that granting a cure period is not acceptable for the party invoking the breach; or
    - bb) bankruptcy or insolvency proceedings are brought against the other party and the termination is indispensable in order to avoid severe disadvantages for the



terminating party, or if an arrangement with creditors is made, or a receiver or examiner is appointed over any of the other party's assets, or the other party goes into liquidation; or

cc) if the services of the other contracting party are being impaired or impeded for a period of more than six months due to force majeure.

- 5.5** If Kapsch increases its prices for the service due to an increase in prices for the connectivity part of the services by its mobile network provider, Kapsch will inform the principal about the price increase. If the principal accepts the new pricing or does not send an objection within 30 calendar days to Kapsch in writing, the new pricing applies from the next invoicing period onwards. If the principal objects against the new pricing, the scope of the service will be automatically reduced and the service fee will be recalculated and apply from the date of the next invoicing period onwards. The services will no longer include the connectivity service. SIM cards shall be handed back to Kapsch. The service fee will be recalculated, taking into account the reduced scope of the services.
- 5.6** In the event that a termination notice is served by Kapsch on the principal pursuant to Section 5.4 of this agreement (termination for important reason) and at the exclusive option of Kapsch (the exercise of such option to be notified to the principal in writing within 6 working days of service of any notice of termination of this agreement or within such longer period as the parties shall agree)
- a) Kapsch is entitled to co-operate and agree processes and procedures with its connectivity provider (e.g. Tele2) for communicating with the principal as to the consequences of termination of this agreement for the principal; and
- b) Kapsch may provide transition services to its connectivity provider (e.g. Tele2) from the date of termination of this agreement in respect of a transfer or assignment of the principal from Kapsch as the contracting party to the connectivity provider.
- 5.7** Kapsch shall be entitled to change the GTC-IoT with an appropriate period of notice, provided that the change is reasonable, taking into consideration the interests of the principal. If changes are made to the disadvantage of the principal, the principal shall be entitled to a termination right for important reason at the time of effectiveness of the change.
- 5.8** In the case of termination of an agreement, Kapsch stops providing the services and deactivates the access rights of the principal. Data stored by Kapsch shall continue to be stored by Kapsch for 30 calendar days following the termination in order to enable the principal to download the data during this period and to store it at a different storage location. After this period has elapsed, Kapsch has the right to delete the data without the possibility to restore. The principal explicitly agrees to this procedure.

## 6. Service fee

- 6.1** Unless agreed otherwise, one-time fees, recurring and constant fees (including charged base amounts) shall be invoiced quarterly after performance of the service. Recurring fees shall be due for the first time at the date of activation of the respective SIM card for the complete calendar month in which the activation took place.
- 6.2** In case of only even partial default of payment Kapsch shall be entitled to completely or partially stop the services (including disconnect SIM cards) until payment receipt. The payment obligations of the principal shall remain upright unaltered.
- 6.3** Recurring fees are calculated based on the country or pricing zone as described in the offer. If the SIM card is used in a different country or pricing zone, the recurring fees may be adapted by Kapsch.

## 7. Network Communication Policy

### 7.1 PROBLEM STATEMENT

- 7.1.1** This section, Problem Statement, is included for informational and contextual purposes to support the Network Communication Policy section.
- 7.1.2** The predicted large scale growth of IoT devices will create major challenges for mobile network operators. One major challenge that mobile network operators must overcome is the risk caused by the mass deployment of inefficient, insecure or defective IoT devices on the mobile network operators' [domestic and roaming] networks. When deployed on a mass scale such devices can cause network signaling traffic to increase exponentially which impacts network services for all users of the mobile network. In the worst cases the mass deployment of such IoT devices can disable a mobile network completely.
- 7.1.3** IoT devices overusing the mobile network can affect not only the devices causing the incident but also other devices on the same IoT service platform or those devices of other end customers.
- 7.1.4** Network signaling resources are dimensioned assuming an overall device usage profile with a sensible balance between traffic and signaling needs. It is

therefore important that IoT devices using mobile networks adhere to some basic principles before they can be safely connected to mobile networks.

- 7.1.5 Good design is essential to ensure that IoT Device performance is optimized and to prevent failure mechanisms creating runaway situations which may result in network overload.

## 7.2 NETWORK COMMUNICATION POLICY

- 7.2.1 The principal is responsible for, and shall assure, that their entire M2M solution including communication module, device, and customer backend follow this Network Communication Policy.

- 7.2.2 In the event of a Major Network Disturbance caused by non-compliance with the Network Communication Policy, Kapsch, at its sole discretion, may temporarily suspend or permanently terminate SIM cards. Major Network Disturbance means a network disturbance which has the following characteristics: (a) regional interruption of the access services or roaming network services; or (b) global interruption or degradation of the access services or roaming network services.

- 7.2.3 In the event of a Minor Network Disturbance caused by non-compliance with the Network Communication Policy, Kapsch, at its sole discretion may temporarily suspend SIM cards. Minor Network Disturbance means a network disturbance which has the following characteristics: (a) a single roaming provider or country with interruption or degradation of the access services or roaming network services; or (b) regional degradation of the access services or roaming network services.

- 7.2.4 The principal undertakes to remedy device or customer backend in the event that they cause Network Disturbances caused by non-compliance the Network Communication Policy. Until such time that the principal can deploy a remedy to devices using the access service and roaming network services, Kapsch, at its sole discretion may keep SIM card(s) suspended and take any actions necessary to ensure the devices do not negatively impact the services. The principal shall bear all costs related to remedying device and customer backend and any associated traffic costs for perform updates to the device.

- 7.2.5 Kapsch reserves the right to charge for any unexpected cost that may occur due to non-compliance with the Network Communication Policy. Charges are limited to a maximum amount of EUR 2 million. Kapsch shall use reasonable efforts to give notice to the principal, where possible, in the event of a detection of violations of this policy.

- 7.2.6 The device, customer backend and device's communication module shall in all

parts conform to the requirements stated in the Device Efficiency Guidelines. Device Efficiency Guidelines mean GSMA's IoT Device Connection Efficiency Guidelines <http://www.gsma.com/connectedliving/gsma-iot-device-connection-efficiency-guidelines/> which are an agreed set of guidelines amongst mobile network operators which set out how the customer device and customer backend should utilize the access services and roaming network services.

7.2.7 Excluding MSUs generated by SMS traffic, the device shall, in average, not generate more than:

7.2.7.1 Ten (10) MSUs per hour for a device installed in a fixed location.

7.2.7.2 Twenty (20) MSUs per hour for a device which is mobile.

### 7.3 QUALITY ASSURANCE

7.3.1 All changes to device and/or firmware shall be tested in a secure environment by the principal before release. The tests shall, at least, secure that the Network Communication Policy is followed.

7.3.2 The principal shall inform Kapsch of planned releases that might affect the network communication behavior.

### 7.4 EXCESS SIGNALLING CHARGES

7.4.1 The IoT's network communication policy of Kapsch's provider used for the services to the principal defines what is proper network communication patterns for devices in the network. Devices that deviate from this generate more signalling events than normal and put stress on the provider's network and the networks of its roaming partners. For these misbehaving devices Kapsch may charge an excess fee, applicable per device per month until the issue causing the misbehaviour is removed. Kapsch may furthermore request the principal to change the configuration of the device or, if a change is not possible, to deactivate the device which has been provided and / or configured by the principal.

7.4.2 Based on normal device behavior the threshold is set at 10 000 signalling messages per device and month, including SS7, GTP and Diameter events. The excess fee is €0,20 per device + €0,000125 per signalling message above the threshold.

## 8. Tele2 2Control

If the service includes access of customers and users of the service ("Users") to the Tele2 2Control portal the terms and conditions of Annex 1 - Tele2 2Control - apply in addition to the other terms and conditions of the agreement.

## 9. Roaming

In the event the service is provided in any EEA country not defined as the home country in this agreement, the provisions of Roaming Regulation (531/2012/EC), hereafter referred to as the Roaming Regulation, is applicable.

## 10. Data protection

The principal undertakes not to process any personal data when using the services in Kapsch's systems as such terms are defined in the General Data Protection Regulation (Regulation (EU) 2016/679). Should the principal process personal data when using the services, and such use result in loss, damage and/or cost to Kapsch, the principal shall indemnify and hold Kapsch harmless against any such loss, damage and/or cost. The liability of the the principal is limited at an amount of 10.000,00 Euro per incident.

## 11. Liability

- 11.1** The liability for slight negligence as well as for service interruption, lost profits, failed savings, interest losses, consequential damages and pecuniary losses shall be excluded with the exception of personal damages and material damages resp. claims resulting from product liability.
- 11.2** If data security has not explicitly been agreed as service, the liability of Kapsch shall be limited to the actual expenses for restoration of the data, to a maximum however of EUR 15.000,- per damage case.
- 11.3** Kapsch does not accept liability for the acts or omissions of other providers of telecommunication services unless such other providers have been specifically engaged by Kapsch in respect of performing Kapsch's obligations under this agreement.
- 11.4** On the whole the liability of Kapsch for any and all damages and expenses resulting from the agreement shall be limited to the basic contractual fee or to EUR

250.000,-, depending on which amount is lower. The contractual fee shall be calculated by the net amount of all allowances incurred until the first possibility of ordinary termination of the agreement.

- 11.5** The limitations of liability as well as the exclusions of liability shall equally apply to the benefit of the governing bodies and auxiliary persons of Kapsch, in particular subcontractors, suppliers, representatives, consultants and employees.
- 11.6** In case of non-compliance with possible user conditions according to the user manual, documentation or official admission requirements, any liability, particularly damages, shall be excluded. The principal shall be responsible for proving compliance with possible user conditions.
- 11.7** Damage claims shall become time-barred twelve months after the date when the principal became aware of the damage as well as the author of damage.
- 11.8** The principal shall undertake to reimburse Kapsch any and all expenses connected to the pursuance of claims (anyhow dunning costs, collection expenses, lawyers' fees, dues) with regard to all contract violations such as in particular payment default.
- 11.9** As this agreement is concluded between Kapsch and the principal and not between the principal and Tele2, the principal may not raise or lodge any claims arising out of this agreement directly against Tele2 insofar as the provision of the services are concerned.

## **12. Final provisions**

- 12.1** Any fees, duties and taxes which are due on the occasion of setting up the agreement (especially fees according to the Gebührengesetz) are borne by the principal.
- 12.2** Austrian Law shall apply exclusively. Place of performance shall be Vienna. Exclusive place of venue shall be Vienna.

Vienna, November 1st, 2018.

## ANNEX 1 - Tele2 2Control

### 1. INTRODUCTION

This Annex 1 applies to all customers and users of the service ("Users") if the service includes access of the principal to the Tele2 2Control portal. The principal will be responsible for all User access and activity in connection with the Tele2 2Control. Kapsch reserves the right to suspend use of the Tele2 2Control for nonpayment, apparent device or application malfunctions and perceived violations of this Annex 1, with use to be promptly restored upon resolution.

### 2. REGISTRATION

As a condition to using the Tele2 2Control, each administrative User of the Tele2 2Control may be required to register with the provider Tele2 and select a unique password and user name ("User ID"). The principal shall ensure that each of such Users provides Tele2 with accurate, complete, and updated registration information. A User may not (i) select or use as a User ID a name of another person with the intent to impersonate that person; or (ii) use as a User ID a name subject to any rights of a person other than such user without appropriate authorization.

### 3. APPLICABLE LAWS

Users will not use the Tele2 2Control or related software in any manner that (a) infringes the intellectual property or proprietary rights, rights of publicity or privacy or other proprietary rights of others, (b) violates any applicable law, statute, ordinance or regulation, including but not limited to laws and regulations related to export, spamming, privacy, consumer and child protection, obscenity or defamation, or (c) is harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, or similarly offensive. Further, Users may not add any data into the Tele2 2Control that may be regarded as personal data. For instance, should User wish to enter information into the fields "End Customer", User must ensure that such data in no way can be connected to a private person.

### 4. SECURITY

Users will not violate or attempt to violate the security of the Tele2 2Control, including, without limitation, (a) accessing data not intended for such User or logging into a server or account which such User is not authorized to access, (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization, (c) attempting to interfere with, disrupt or disable Tele2 2Control to any User, host or network, including, without limitation, via means of overloading, "flooding", "mail-bombing" or "crashing", (d) forging any TCP/IP packet header or any part of the header information in any e-mail, (e) taking any action in order to obtain Tele2 2Control to which such User is not entitled or (f) sending any

virus, worm, Trojan horse or other harmful code or attachment. Violations of system or network security may result in civil or criminal liability. Kapsch and Tele2 reserve the right to monitor the Tele2 2Control at any and all times to facilitate compliance with this Annex 1 but is not obligated to do so. Each User consents to the processing of information necessary to provide the Tele2 2Control at Tele2's or Kapsch's data centers.

#### **5. CONFIDENTIALITY**

User acknowledges that the Tele2 2Control (and related information provided) represents valuable proprietary information of Tele2 and Kapsch and that unauthorized dissemination or use of this information is prohibited and could cause irreparable harm to Tele2 and Kapsch. User will hold such information in confidence, including the results of any evaluation, and will only use such information in connection with the Tele2 2Control. User will not disclose such information to any person or entity that is not bound by these terms. The three preceding sentences do not apply to information that: (i) is or lawfully becomes a part of the public domain; (ii) was previously known without restriction on use or disclosure; (iii) is rightfully received from a third party; (iv) is independently developed; (v) is approved for release by Tele2 or Kapsch; or (vi) is disclosed in response to a valid order of a court or lawful request of governmental agency or as otherwise required by law, provided that User first notifies Tele2 and secures an appropriate protective order.

#### **6. INTELLECTUAL PROPERTY**

User will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Tele2 2Control or any technology related to the Tele2 2Control ("Technology", including documentation); modify, translate, or create derivative works based on the Tele2 2Control or Technology; or copy (except for reasonable archival purposes), rent, lease, distribute, pledge, assign, or otherwise transfer or encumber rights to the Tele2 2Control or Technology; use the Tele2 2Control or Technology for timesharing or Tele2 2Control bureau purposes or otherwise for the benefit of a third party, except for authorized end users; or remove any proprietary notices or labels with respect to the Tele2 2Control. User will not use the Tele2 2Control, related software or Technology or access it, as applicable, in order to build a competitive product or Tele2 2Control, build a product or Tele2 2Control using similar ideas, features, functions or graphics of the Tele2 2Control, or copy any ideas, features, functions or graphics of the Tele2 2Control. Tele2 and Kapsch retain all rights in the Tele2 2Control, related software and Technology and are free to use any User feedback on the Tele2 2Control without notice, attribution or compensation. To be clear, no express or implied license to any Tele2 or Kapsch's patents is conferred in connection with use of the Tele2 2Control.

#### **7. INDEMNIFICATION**

User will indemnify Tele2 and Kapsch from any claim by a third party (the "claim" including all related liability, loss or expense, including attorneys' and experts' charges) that User's use of the Tele2 2Control with User's devices and applications violates this

**Kapsch BusinessCom AG** | Wienerbergstraße 53 | 1120 Wien | Österreich | Telefon +43 50 811 0 | Fax +43 50 811 9995 | office@kapsch.net | www.kapschbusiness.com | www.kapsch.net | HG Wien FN 178368g | Firmensitz Wien | DVR 0832995 | UID: ATU46276408 | ARA 14073 | GLN 9008390074879 | Raiffeisenlandesbank Oberösterreich (BLZ 34000) Konto 97899 | BIC RZOOAT2L | IBAN AT35 3400 0000 0009 7899



Annex 1 (including the recommendation against use in fail safe conditions described below) or infringes the intellectual property rights of such third party, except to the extent such third party intellectual property rights claim arises regardless of User's devices and applications and will defend such claims at Tele2's or Kapsch's request, provided that Tele2 promptly notifies User or Kapsch promptly notifies Tele2 of the claim and reasonably cooperates in its defense.

#### **8. DISCLAIMER**

Tele2 2Control will be provided by Kapsch consistent with prevailing industry standards in a manner that endeavors to minimize errors and interruptions in the Tele2 2Control. Service may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance or because of other causes beyond supplier's or Tele2's reasonable control. Tele2 and Kapsch DO NOT WARRANT THE END RESULTS OBTAINED AS RESULT OF USING THE Tele2 2Control TOGETHER WITH USER'S DEVICES AND APPLICATIONS OR THAT USE OF THE Tele2 2Control WILL BE UNINTERRUPTED OR ERROR FREE. Tele2 AND KAPSCH DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. IN NO EVENT WILL Tele2 AND KAPSCH BE LIABLE TO USER FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES IN CONNECTION WITH THE SERVICE, ANY THIRD-PARTY INTERNET MATERIALS OR USE OF THE OPERATOR NETWORK. USE OF THE SERVICE IN CONNECTION WITH APPLICATIONS THAT REQUIRE FAIL-SAFE TECHNOLOGY IS NOT RECOMMENDED BECAUSE THE Tele2 2Control IS NOT DESIGNED FOR THESE APPLICATIONS. FOR THE PURPOSE OF THIS ANNEX 1 THE FAIL-SAFE APPLICATIONS ARE ANY APPLICATION WHERE A MALFUNCTION MAY RESULT IN LOSS OF LIFE, BODILY INJURY, MAJOR ENVIRONMENTAL IMPACT OR PROPERTY DAMAGE, TYPICALLY IN THE MEDICAL, MILITARY, AVIATION AND NUCLEAR FIELDS OF USE, ALL USE OF THE Tele2 2Control IS AT USER'S OWN RISK.