

## Special Terms and Conditions / description of services for Premium SMS

As of November 2009

### § 1 Purpose of the Contract

1. As a gateway for Premium SMS services AID operates various short code phone numbers (shortcode), which are attainable by SMS from different mobile networks (networks). Each of these shortcodes is attainable by SMS from each of the networks at a given sales price. The respective shortcodes as well as the final sales price follow the Premium SMS Ratecards from AID (Ratesheet).
2. The Mobile Network Operators (MNO) occasionally grant their mobile users (end users) the possibility to send or receive so-called Premium SMS messages (SMS) and so to claim value-added services. The SMS are sent to service portals that are identified through shortcodes in the respective network. The content of the value-added service may be the return of a SMS with the value-added service content or it may also be the processing of the information transmitted by the SMS (e.g. Voting-services). The costs for the utilization of the service arise with the end user through dispatch of a SMS (MO) or through the receipt of a SMS (MT). Each possible shortcode can only be used for one of these methods.

### § 2 AID Services

1. SMS are possibly not supported by all networks and also possibly not on all mobile systems (UMTS, GSM). There may also be restrictions or changes as far as end users are concerned, who have taken out contracts with service providers (SP) of the MNO. The designation of certain networks in this contract therefore only ever refers to end users, who have taken out their mobile contract directly with the respective MNO. Nevertheless SP also count as MNO within the framework of the contract as far as these SMS are concerned.
2. AID would like to make possible to its customer the offer of value-added services with such SMS whereby the customer alone should be exclusively responsible for the production of the value-added service including its content and the application. AID offers customers, who want to make available Premium SMS services to end users, the use of access to the allocated AID shortcodes, whereby the respective customer will be allocated a service keyword for the shortcode (shared\_shortcode). After separate agreement the customer can also be provided with a temporary shortcode for exclusive use (dedicated\_shortcode). AID's service can also include the provision of the dispatch of SMS messages to mobile users for the production of the value-added services. All rights to the shortcode and the keyword remain with AID.
3. The SMS's to be allocated or sent must fulfil the current standards of MNO. AID will name these standards upon

request. The customer is obliged to take notice of changes of the standard by network operators.

4. Apart from the coordination and arrangement of the services with the MNOs and the supply of SMS, AID will also calculate the supplier compensation with the respective MNO and if applicable distribute the collected compensation amounts to its customer. The parties are united in that AID should in no way bear any risk of loss in demand or loss in the existing demand.

### § 3 Utilisation of the shortcodes or keywords

1. AID enables the customer to use a shortcode via certain keywords exclusively allocated to the customer. The keyword enables AID the unambiguous allocation of the received SMS to the respective customer. For this the respective keyword must be indicated in the creation of the SMS in the first place. The customer has no further rights to the keywords arising from the provision of the keywords; the duration of their use is restricted to the length of the contract.
2. The shortcode requested by the customer and the requested respective keyword are given by AID in the order form or the order confirmation. The agreement of a shortcode or a keyword is only binding if AID specifically confirms this in writing after verifying the availability. It cannot be guaranteed that the shortcode or the keyword will also be attainable from any (including future) networks.
3. AID can take back the unused or unapplied shortcodes or keywords allocated to the customer. In cases of doubt, shortcodes or keywords with a yield of less than 500 SMS per statement month count as unused. AID can use the returned shortcodes or keywords in any other way they desire. There is no claim for compensation from the customer for generated yield from the moment of return onwards. AID informs the customers at least ten days in advance concerning the planned withdrawal of shortcodes or keywords as well as the moment of the withdrawal.
4. The rights of the customer to the use of shortcodes or keywords end with the termination of the existing contract relationship.

### § 4 Allocation and collection of the SMS (Originating)

1. The allocation and collection of the SMS received for the customer under the agreed shortcode and the allocated keyword is part of the service provided by AID. This service is only offered with the service features and the availability in the way it is made available by the MNO. The customer accepts therefore that the MNO do not assume a guarantee of transmission of a SMS and the allocation of a SMS is subject to a capacity limit. AID is only obliged to

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allocate the quantity of SMS that corresponds to the forecast delivered to the customer.

2. The networks from which allocation occurs at the moment are the networks for which compensation in the ratesheets has been determined. The networks can and should as far as possible be extended by AID.
3. AID will forward the SMS received for the customer to them in accordance with the procedure agreed in the order form. The customer is obliged to process the SMS received by them directly and to provide the end user immediately and properly with agreed value-added service.
4. AID is entitled to assign all received Premium SMS to the customer, who is identified by the keyword. SMS that contain no valid keyword cannot be assigned, allocated and therefore cannot be remunerated. The issue of the keyword by the consigner is the sole responsibility of the customer.
5. The allocation and the compensation capability are dependent on the end users using the correct SMS-switchboard (SMSc) of their respective MNO for the dispatch of SMS. The use of the responsible SMSc cannot be guaranteed by AID and therefore the risk rests with the customer. In their own estimate, the customer will refer the end users to the corresponding SMSc-numbers to apply.

### § 5 Sending SMS (Termination)

1. Provided that the return of a SMS is the object of the value-added service, the customer will carry out this dispatch at that time. In SMS MT services, the delivery of the content will be performed through billable SMS-MT. The customer can - provided that nothing else is planned - take on the dispatch themselves or make use of the services of AID to carry out the dispatch. AID then takes on the dispatch of SMS that the customer transfers over to AID. The dispatch may or can only be carried out to the end user and to the target network from which the respective user has sent the SMS, unless something else arises from the content of the value-added service offered, and this is supported by the MNO.
2. AID is only obliged to send the quantity of SMS that corresponds to customer forecast to be delivered and which has been confirmed by AID.
3. The customer is aware that the MNO do not guarantee transmission success of a SMS and that success is dependent upon the reachability of the end user. As a rule, SMSs that cannot be delivered are deleted by MNO after 48 hours at the latest.

### § 6 Calculation and collection of the supplier compensation

1. In exchange for the dispatch (MO) and/or the receipt (MT) of SMS, compensation is raised for end users, which apart from the delivery of SMS, also compensates for the production of the value-added service (supplier compensation). As an economic result of the production of the value-added service the customer accrues the supplier compensation proportionately.
2. This supplier compensation is calculated by the respective MNO vis-à-vis the end user and the compensation are collected. AID takes on the calculation of the supplier compensation with regard to the MNO. The end user price of the SMS and the respective amount of the supplier compensation are determined for the respective attainable networks in the ratesheets of AID.
3. Depending on the respective MNO, the value-added service is bought up by the customer and/or AID within the framework of a so-called pre-product regulation and supplied to end user in the name of the MNO or alternatively there is a claim from the customer for the production of the value-added service towards the end user. In this second case, the MNO will purchase the service from the customer/AID (purchase of claim).
4. In the case of turnover commission: If the MNO provide the customer with a turnover commission on the end user price, this, together with the amount, will be determined in the ratesheets. In this case the supplier compensation is to be understood under the terms of turnover commission that the MNO pay out to AID.
5. In the case of the customer's own request and the purchase order: If separate contract concerning the provision of the value-added service comes into being, based on the respective specification of the MNO, between the customer and the end user, who have sent the SMS, then this is also to be detailed in the ratesheets under designation of the respective provider compensation with the term purchase order. In these cases, the term provider compensation is to be understood as the purchase price, at which the MNO purchases the customer's order with regard to end user and pays this order out to AID.
6. AID calculates the respective supplier compensation in their own name but on account of the customer with the respective MNO and distributes the received payments on to the service provider. Both parties are agreed here that AID bears neither the risk of loss of demand nor loss of the effective existence of demand. Therefore only those sums are forwarded which AID receives from an economic point of view and they are final and without reserve of the MNO. As far as further collection measures are concerned, e.g.

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judicial demand requisitions, AID has no specific obligations.

7. The customer is obliged to undertake all the required actions upon request from AID so that AID can calculate and collect the supplier compensation in accordance with the determinations of this contract. The customer is obliged not to carry out any own calculations or collection measures, unless the collection or the purchase order is finally and definitely rejected by AID or the MNO.
8. The zero rate in VAT withholding procedures as per § 52, paragraph 4 of the VAT Implementing Regulation (UStDV) for other services applies. AID is entitled to input tax. If AID fails to deduct the input tax because the services were not performed by the customer either to the user or to AID, then the customer is obliged to refund AID for the invoiced VAT in accordance with § 238 of the General Fiscal Law (AO), plus applicable interest of 6.5% p.a.

### § 7 Sale and cessation in cases of purchase orders

In all cases in which according to figure § 6 (5) there is a purchase order, the following has been agreed between AID and the customer:

1. The customer is obliged to offer all receivables (against customers of the MNO) arising after conclusion of this contract for sale to the MNO. The MNO will accept (purchase) the claims respectively through monthly calculations with regard to AID.
2. With this, the customer cedes sold payment claims to the respective MNO. Furthermore, all other rights and claims from its contract relationship with the end user are handed over to the respective MNO, in particular, all independent organisation rights, all dependent organisation rights that are not of a highly personal nature or that serve the execution of the sold payment claims, as well as all customer compensation claims against the end user including all securities incorporated therein. If there are some organisation rights remaining with the customer thereafter, the customer will acquire the approval of the MNO through AID before executing these. Upon request from AID or the MNO the customer is obliged to execute these rights.
3. The MNO already declared its acceptance of the cessation declaration in the contracts with AID. AID is entitled to deliver the above-mentioned declarations for the customer in its own name (on account of the customer) or to accept declarations from the end user or the MNO or other third parties (commission commerce).
4. The customer is responsible for the legal stock and the freedom of protest and objection, as well as the transferability of receivables (claims). The customer will support

AID or, upon request, the MNO in the execution of the receivables (claims) to the best of their ability.

5. If the end users raise objections against the ceded receivables from the customer, the MNO can enter agreements with the end users, reducing the amount due by up to 25.- € in accordance with figure § 13 (4) (goodwill). If the objections exceed this sum, the following applies with regard to receivables and end users: The execution of rights to legal proceedings by the MNO needs the prior approval of the customer, who AID can declare in their name but on account of the customer. In this case, the customer is obliged to make available to AID upon request the estimated expenses necessary for the MNO for the claim or legal proceedings (court and lawyer costs) as an advance for a court procedure. AID can calculate this advance claim with continuous payments. If the MNO has a complete or partial victory, it will pay AID the costs returned by the end users for the account of the customer. As far as the MNO is concerned, the demand does not count as being effective and will therefore be rejected. If the customer does not make the advance, AID is not obliged to make the advance to the MNO from its own means and can deny approval for legal proceedings. The MNO will then regard the demand as non-existent based on the objections raised and will therefore reject the purchase price for the demand. As a counter-move to this, it will transfer the demand back so that the customer can pursue any possible claims themselves. AID is irrevocably authorised to accept this transfer in their own name but on account of the customer, and to transfer this demand for their part on to the customer who irrevocably accepts it. AID will charge the customer the reversal from the MNO.

### § 8 AID compensation

1. AID receives a compensation for services in accordance with this contract which is determined in accordance with the ratesheets.
2. Compensation accruing to AID is calculated by AID as a rule with the supplier compensation to be paid. The payment sum which typically results according to this calculation (without consideration of one-off payments) is also indicated as a calculation in the ratesheets. This calculated payment sum provides that the supplier compensation can be collected completely from the MNO. One-off payments, e.g. for the arrangement of shortcodes or keywords, remain untouched by the calculated payment sum, which only represents a calculation aid.

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### § 9 Special calculation and payment conditions

1. By the end of the following month, AID will issue a calculation statement for the current month that contains the payments due to AID and the supplier compensation to be paid out to the customer. These sums are normally calculated and a credit is issued to the customer by way of a credit note. The AID statement is based on the analysis undertaken by AID of the SMS received under a keyword or shortcode. AID has the right to undertake retroactive adaptations and changes to monthly statements compiled by them, provided that other values are given from the final calculation of the respective MNO. As long as calculable differences do not arise, AID is also entitled to a proportionate correction.
2. The customer is aware that the payment of the supplier compensation by the MNO (depending on the MNO and the country) only follows months after the end of the month, in which the SMS was sent. As soon as AID has received all final and effective supplier compensation for a statement month, the customer share is paid out. A nonbinding time period is given in the contract form or the ratesheets. However, the payment to the customer only results after unreserved receipt of the compensation at AID.
3. Unprofitable demands (for whatever reason) are each issued within the framework of the customer statement and are calculated at that time; none calculable demands are charged back to the customer. Provided that the losses or reversal exceed the compensation claim, AID will generate an invoice that is due for payment immediately. The same is true if the losses are only known at a later date and calculation with current proceeds is no longer possible or is not in the full amount.
4. Payments by AID shall be by electronic transfer to an account named by the customer. Amounts lower than 25.- € per month will neither be credited by AID, nor paid. Entitlements below 25.- € per month shall lapse. For payments to foreign accounts, AID shall charge a processing fee per transaction, as contained in the price list. All bank charges and costs shall be paid by the recipient. Debts payable to the customer arising from this contractual relationship shall be offset against any reimbursement claims.
5. Bills are to be issued in the national currency of the respective country for which the SMS are offered. Provided nothing else is agreed, payments are to be made to the customer in EUROS. The respective currency conversion is made at the exchange rate, which is applicable on the associated credit note of the respective carrier to AID. In

particular, within the scope of re-debiting, currency fluctuations are to be borne by the customer.

6. All prices and ratesheets of AID are stated excluding the legally applicable VAT and if applicable less withholding tax. Payments to foreign customers are forwarded excluding the respective national VAT.
7. Furthermore, AID reserves the right, if the contract is terminated, to demand security from the customer for any subsequent claims or charges made by the MNO. The amount of this security must be related to the realistic value of the expected defaults. Alternatively, AID can withhold a corresponding amount from the outstanding payments. The security shall be safeguarded by AID in a separate account. This shall be disclosed to the customer upon request. As soon as it is ascertained that no more outstanding debts can be asserted, AID shall immediately release the securities. This shall also apply if customer sales decrease rapidly (>30% reduction in 4 weeks).
8. If there is a suspicion that at least parts of the volume of calls is due to manipulation or if AID is informed by the MNO that there could be demands for repayment under some circumstances, AID reserves the right to withhold the payment in full or in part until the matter is cleared. The amount of the withheld amount must be reasonably related to the possible damage caused.

### § 10 Responsibility for and content of the value-added services

1. In accordance with this contract, the customer is obliged to offer and to apply via the service keyword and in particular the allocated AID shortcode only those services that correspond to a Premium SMS. A violation against the obligation must be regarded as misuse and if need be as fraud against the possible dispatchers of SMS to this shortcode. If services are offered that do not fulfil the prerequisites of a Premium SMS, AID can deny the payment and further allocation of SMS.
2. The customer is obliged to supply the value-added services regularly and immediately upon receipt of the SMS, provided nothing else is given in the service description. The value-added service availability must be able to demonstrate within the value-added service indicated by the customer in the service description over any 24 hours an availability of at least 99,8%. The customer is obliged to manage and maintain the necessary requirements at their own expense. If the value-added services are not supplied regularly, the supplier compensation can be decreased correspondingly by the MNO or in certain cases a payment can be completely denied. A lower than 99.8% monthly service availability

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entitles AID to terminate the contract without further notice. On-going AID rights remain unaffected by this.

3. The customer is not entitled to sell the services of AID on to other service providers. However, they are permitted to make use of assistance and to purchase the value-added service content from third parties.
4. For reasons of settlement and consumer protection concerning the services of AID and the utilisation of the given shortcodes, the customer can only receive the supplier compensation and vis-à-vis its customers can only show those prices that are designated in ratesheets. The customer is obliged to only show these prices. If the customer intends to designate or to achieve other prices, then they may not and can not use the services from AID.
5. The customer is aware that, on improper use of the SMS services (e.g. also Spam-SMS) the MNO can block the relevant shortcode including all further shortcodes allocated by AID. In the case of such a misuse causing a block, the customer must bear the costs of total damage arising from it, and indemnify AID from any claims. The customer ensures once again that they will abstain from any such misuse and do everything in their power to check any such misuse.

### § 11 Information obligations of the customer

1. In the advertising of their service as well as in the service provision the customer will (in a suitable manner) make sufficiently clear that they alone are exclusively responsible for the contents of the service and will fulfil all legal reference obligations according to price.
2. As the information obligations on the part of the MNO can change (and also be extended), AID also has the right to adapt each valid information obligation accordingly. Current valid obligations are summarised in the section "summary of the information obligations".

### § 12 Cooperation obligations of the customer, contract penalties

1. The customer is obliged to send all SMS that include a shortcode or keyword allocated by AID exclusively via AID.
2. The customer is obliged to pay attention to the general terms and conditions of AID in the execution of the service. In particular, the customer may not use SMS for un-requested advertising measures (Spamming ban), or for immoral means. SMS may only be sent to receivers who have demonstrated their agreement beforehand with the receipt of the message.
3. The customer is prohibited, in his or her communication or in the settlement of the service, to represent AID or one of

the cooperating MNO with one of its registered logos or with other commercially patented rights, unless, written consent exists for this in the individual case.

4. The customer is obliged to abstain from all improper use of the service, in particular
  - a) not to bypass the security measure of the systems of AID or of third parties;
  - b) not to transmit any computer viruses or other damaging software or to request its remittance;
  - c) not to use anything that could lead to damages or impairment of the installations of AID or its partners.
5. The customer is obliged to set the sender ID in a way that all sent SMS's can be traced back to the sender of the message.
6. The customer is obliged to pay AID a contract penalty in the amount of 25,000.- € per infringement against the figures § 10, § 11 or § 12 (1) to (5) of use as well as against the imposed duties summarised in the information obligations in Appendix 1. In addition, AID specifically reserves the right to claim on-going damage, to block customer access as well as to terminate the contract without further notice. The customer is aware that the offence against these obligations can have considerable economic effects on AID.
7. In offences against the obligations named in figure 12.6, AID is released from paying the supplier compensation to the customer, and can keep the sums retained as a security for compensation claims, provided that this is deemed necessary for the security of AID.

### § 13 Customer inquiries and claims

1. After separate agreement AID will maintain a hotline on behalf the customer and process inquiries as well as claims from customers. The customer authorises AID to meet binding regulations concerning claims with customers on the phone and the supplier compensation accruing to the customer in accordance with AID's estimates. AID will take into consideration the interests of the customer accordingly.
2. The customer will designate colleagues and their phone number for enquiries from AID, who will be available during the usual office hours in the relevant country.
3. For claims or calls received by AID or the respective MNO that at least also concern the services of the customer according to this contract, AID is entitled to determine a compensation that covers the costs incurred by AID (see pricelist other services).
4. The MNO have partly reserved the right to decide on an obliging settlement due to objections against the

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calculation of the SMS or the value-added services offered, according to which demands of up to 25.- € per statement period and per customer can be released according to their own estimate. In the case of such a release, the sum is deducted by the MNO from the payment sum or is calculated retroactively with other payment amounts. AID will therefore not be able to make the payment of the amount issued. In addition AID is also entitled to decide on the sum of 25.- € apiece in an obliging settlement with the end users, who claim the processing of claims from AID.

5. With the occurrence of charge backs based on the value-added services offered by the customer, the MNO charge for collection fees. SMS appearing from the customer which are in breach of the contract will also be charged by up to € 0.12 from the MNO. The customer has to bear these expenses against evidence. The same applies to additional expenses that are claimed to AID by the MNO due to the increase in claims.

### § 14 Special right of cancellation

If the respective MNO is no longer able to undertake the invoicing of the debt collection of supplier fees and no equivalent compensation can be found from other MNO, AID is authorised to immediately cancel this contract due to the absence of the basis of the contract.

### APPENDIX 1

#### „Summary of the information obligations“

1. The customer is obliged to indicate the end user price (gross) per SMS unambiguously and clearly observable in each piece of advertising. If several SMS should be necessary in the utilisation of a value-added service from the customer, then the customer is obliged to name not only the price per SMS, but also the total price that is to be paid for the utilisation of the value-added service offered. In the tariff statements in all media, the following is to be noted:
  - a) Official currency signs are to be given in the currency used to bill the end users; for example in the euro zone: Euro, EUR or €.
  - b) End user prices are to be given with two figures after the decimal point.
  - c) As a reference size "je SMS", "pro SMS" or "/ SMS" is allowable in the respective local language.
  - d) The price statement must always be complete (currency, price and reference size).
2. The customer will point out in a suitable manner that the end user must input the SMS-centre for the dispatch of the SMS, which the respective MNO has planned for the dispatch.
3. When advertising or publishing the value-added services the customer has to obey the regulations set by the MNO in each country.
4. The utilisation of a shortcode for the purpose of a reply without an offer or with a simulated offer is inadmissible.
5. In the case of the forwarding of SMS-traffic to a third party, the customer is obliged to encrypt the sender-MSISDN (sender phone number), so that the use of the customer's details by the third party or the misuse of the MSISDN is excluded. In justified exceptions that are inevitable for the realisation of the service (e.g. for the ascertainment of winners of a competition) the customer can forward the unencrypted MSISDN, if guaranteed by secure means, that the use of the customer's details by a third party or the misuse the MSISDN is excluded. These measures must be proved by the customer upon request.