

# **General Business Terms for the Provision of Services of EDITEL CZ s.r.o.**

## **valid from 25. 5. 2018**

### **Introduction**

These general business terms shall apply to the provision of telecommunications services, services in the area of information technology and related services provided to the Customer by EDITEL CZ s.r.o. The Customer shall be entitled to access the Services upon an order issued for each Service type, the delivery of which the Customer has an interest in, and subject to Service acceptance by EDITEL CZ s.r.o. The technical information and data on procedures and levels used for each service type shall be submitted in the Service Schedule/Schedules set out for the given type of Service. The accepted order shall contain references to current versions of the relevant Schedules to the Services.

### **Article 1. Definitions**

1.1 In these General Business Terms and in any other contractual documents the following expressions have the following meanings:

EDITEL CZ s.r.o.,	V parku 2294/2, Chodov, 148 00 Praha 4, IČ: 60194383, entered in the Registry of Companies held at the Municipal Court in Prague, Section C, File 128840; Customer means the person who has issued the Order and delivered it to EDITEL CZ s.r.o.; Order means the Order issued by the Customer via an order (order/registration form) delivered by EDITEL CZ s.r.o.;
Accepted Order	means the Order accepted by EDITEL CZ s.r.o. becoming on acceptance a binding contract between the Contractual Parties on the delivery of the Services specified in the Order by EDITEL CZ s.r.o.;
Binding Delivery Date	means the date of EDITEL's written commitment to provide the Customer with access to the relevant Service;
General Business Terms	means these General Business Terms for the provision of the Services under which EDITEL CZ s.r.o. provides the Services to the Customer;
Service Readiness Date	means the date when the Service is made accessible to the Customer for testing purposes and operational use;
Service Schedule	means the document attached to the contract with the Customer describing technical data and procedures, service level and other information about the Service covered by the relevant Accepted Order;
Services	means communication services, services in the area of application services and related services provided by EDITEL CZ s.r.o. or on behalf of EDITEL CZ s.r.o. to the Customers of EDITEL CZ s.r.o.;
Targeted Delivery Date	means the non-binding estimated date of EDITEL's plan to make the relevant Service accessible to the Customer.

### **Article 2. Contractual Relationship**

2.1. The Customer undertakes to take over and EDITEL CZ s.r.o. undertakes to provide the services described in detail in the Accepted Order, as stipulated further in the Service Schedules and under the terms set out in these documents and in the General Business Terms. Save as otherwise expressly provided in the Accepted Order, during the effectiveness of the Accepted Order, EDITEL CZ s.r.o. shall be entitled to change the Services' specifications via the update of the Service Schedules. EDITEL CZ s.r.o. shall inform the Customer about each change of the Services' specifications at least 30 days in advance. In case of disagreement with the change of the Services' specifications proposed by EDITEL CZ s.r.o., the Customer is entitled to dismiss these at least 15 days ahead of the planned date of their execution. In such case the contracting parties will launch negotiations regarding the Services' specifications proposed by EDITEL CZ s.r.o. Unless a disagreement is stated, the changes are understood as agreed upon by the Customer.

2.2. The performance under the contract with the Customer shall not result in an exclusive relationship between EDITEL CZ s.r.o. and the Customer. EDITEL CZ s.r.o. may offer its services to any third party.

2.3. The Customer may also order from EDITEL CZ s.r.o. services other than the Services under the Accepted Order, should EDITEL CZ s.r.o. provide the Customer with written or electronic order forms to this effect.

2.4. The Customer agrees not to have any other user rights to any components of the Services, which he shall use, than the user rights set out in the Service Schedules under the Accepted Order.

2.5. In the case of any conflict between the General Business Terms and the documents listed hereunder, the document placed higher on the list below shall prevail:

- Accepted Order
- Service Schedule
- General Business Terms herein

### **Article 3. Service Quality and Deliverables**

3.1. EDITEL CZ s.r.o. shall provide the Customer, in compliance with the Service delivery procedure set out in the Service Schedules, with the Service of operational use or testing ("Service Readiness Date") until the Binding Delivery Date (inclusive). All delivery terms or time limits communicated by EDITEL CZ s.r.o. to the Customer and not indicated by EDITEL CZ s.r.o. as the Binding Delivery Date, shall be considered the Targeted Delivery Date.

3.2. Should, contrary to Article 3.1. herein, the Service Readiness Day come later than the Binding Delivery Date due to causes on the side of EDITEL CZ s.r.o., the Customer shall be entitled to the relevant corrective measures set out in the Service Schedules, except for the situations falling under 3.5 and 3.6. herein. These corrective measures shall be the Customer's only corrective measures under the given circumstances. If the Service Schedule does not set out any corrective measures, the Customer's only corrective measure shall be the right to cancel a delayed Service, should it be delayed by more than 10 business days.

3.3. EDITEL CZ s.r.o. shall provide the Services and correct any variance of the Services from the Service Schedules basically in accordance with the Service Schedules and/or basically in accordance with the Service levels set out herein. EDITEL CZ s.r.o. shall provide the Services with reasonable care and skill, as expected from a qualified provider of communication and application services with a good report.

3.4. Should the Services vary from their description in the Service Schedules or should their quality deteriorate, the Customer shall be entitled to corrective measures set out in the Service Schedules, except for situations under

3.6. These corrective measures shall be the only corrective measures of the Customer under given circumstances. If the Service Schedules do not specify any corrective measures, the Customer's only corrective measure shall be the right to cancel the affected Services, should their quality have significantly deteriorated for more than three successive months or should they not be available at all for more than 10 business days.

3.5. Should the Customer ask EDITEL CZ s.r.o. to deal with the faulty Service and the problem lies in the network or equipment of the Customer, the Customer's customers or any third party whose services the Customer uses, or should the reported problem be caused by the Customer, the Customer's customers or any third party whose services the Customer uses, EDITEL CZ s.r.o. reserves the right to charge the Customer with all reasonable costs of resolving the reported problem.

3.6. EDITEL CZ s.r.o. shall not bear any responsibility for Service non-provision, impairment or variance from the description and level set out in the Service Schedules, nor for any delay in the Service provision, which:

- may be ascribed to a reasonable extent to the conduct or nonfeasance of the Customer, the Customer's employees or third persons hired by the Customer;
- cannot be solved by EDITEL CZ s.r.o., as the Customer refuses without giving reason to provide EDITEL CZ s.r.o. with access to his network or equipment for the purposes of installation, testing or rectification;
- occurs during any planned maintenance or re-organisation in compliance with the procedures set out in the Service Schedules;
- is caused by Force Majeure;
- is caused by an interruption under Article 5 below.

3.7. Unless agreed otherwise in writing between EDITEL CZ s.r.o. and the Customer, EDITEL CZ s.r.o. shall not bear any responsibility for assessment of the Customer's needs in terms of space, computer and transmission capacities, equipment capacity and their use. All decisions in connection with the aforementioned options shall be the responsibility of, and made by, the Customer.

#### **4. Fees and Payments**

4.1. Measurement of the use of the Services by the Customer shall be set out in the price list. The Service fees shall be set out in the price list provided to the Customer with the Service offer. The price list shall not quote VAT of 21 % of the Service fees. VAT amounts shall be added to all issued invoices.

4.2 Unless specified otherwise in the Accepted Order, the Services shall observe the following settlement rules:

- EDITEL CZ s.r.o. shall issue the invoice for relevant non-recurring fees on the Service Readiness date;
- The invoices for relevant recurring fees and relevant operational costs and the fees charged in accordance with the rates for time and materials shall be issued retrospectively on a monthly basis.

4.3. If the blame for a delayed Service Readiness Date can be ascribed conclusively to the conduct or malfeasance of the Customer, the Customer's employees or the third parties whose services the Customer uses, EDITEL CZ s.r.o. may invoice the relevant fees from the date the Service would have been ready if the delay had not occurred.

4.4. All discounts or penalties payable to the Customer shall be included in the invoices against recurring fees charged to the Customer.

4.5. None of the fees shall include value added tax nor any other similar tax.

4.6. The Customer shall pay all invoices within 14 days of the date of issue by transfer of the invoiced amounts to the relevant bank account indicated on the invoice. EDITEL CZ s.r.o. reserves the right to charge (i) late interest at the rate of 11 % per annum on all invoiced amounts still outstanding after this 14 day period elapses.

4.7. Save as otherwise expressly provided in the Accepted Order, EDITEL CZ s.r.o. shall have the right to change the fees for provided Services via the price list update made during the effectiveness of the contract with the Customer or Accepted Order, but not more often than 2x a year. EDITEL CZ s.r.o. shall have the right to change the fees more often than 2x per year only in the event:

- telecommunications providers' fees change; or the inflation rate increases by over 5 %, compared to the status of the last pricelist's update made in accordance with the Czech Statistical Office's data;
- the regulatory authority sets special tariffs for the Services under the relevant Accepted Order, or
- EDITEL's business strategy changes considerably.

EDITEL CZ s.r.o. shall inform the Customer about fee changes at least 15 days in advance. In case of disagreement with the Services' fees changes increasing the fees by 10 % or more, the Customer is entitled to dismiss these at least 15 days ahead of the planned date of its execution. In such case the contracting parties will launch negotiations regarding change proposed by EDITEL CZ s.r.o. Unless a disagreement is stated, the changes are understood as agreed upon by the Customer.

#### **Article 5. Discontinuation of the Services**

5.1. EDITEL CZ s.r.o. shall be entitled to discontinue forthwith the provision of all Services in full or in part, or (in relevant cases) disconnect, shut down, remove the Customer's equipment, data or cables from network, as well as EDITEL's devices and equipment or block on-line access hereto:

- if asked to do so by a state authority and to the extent specified by this authority; if EDITEL CZ s.r.o. has to do it to comply with legal changes or regulatory changes (or the application thereof) and in the scope required hereby; or if EDITEL CZ s.r.o. has to do so due to a legal warrant and in the scope required by the legal warrant;
- if the Customer does not meet the fundamental obligations under the Accepted Order and the documents indicated herein and does not rectify such breach within 14 days from the receipt of written notification specifying the relevant breach and calling for rectification;
- if the Customer fails to meet the fundamental obligations under the Accepted Order;
- if the Customer does not pay any due amount after receiving written notification specifying that a payment is in delay, and does not rectify such breach within 14 days from the receipt of the written notification with a description of the relevant breach and demand for rectification;

- if the Service quality and accessibility provided to other customers by EDITEL CZ s.r.o. is effected negatively by the conduct of the Customer or the Customer's customers, associates or sub-contractors; by the Customer's equipment or cables, or through his equipment or cables, or if a negative effect is threatening;
- if the security of persons or assets is effected negatively by the conduct of the Customer or the Customer's customers, associates or sub-contractors; by the Customer's equipment or cables, or through his equipment or cables, or if such negative effect is threatening.

5.2. If it is suspected that a situation under 5.1 may exist, EDITEL CZ s.r.o. reserves the right to terminate permanently the relevant Services by written notice sent to the Customer thirty (30) days before the effective date of termination.

5.3. The Customer shall not be obliged to pay the fees during the whole period of the aforesaid discontinuation, except for a discontinuation due to a breach, or neglect, non-performance, or nonfeasance on the part of the Customer, the Customer's employees, subcontractors or the Customer's customers, as set out above.

5.4. EDITEL CZ s.r.o. has the right to invoice a one-off Services reactivation fee to the Customer, if the cause of the Services discontinuation was on the part of the Customer, such as non-payment of invoices for the Services etc. The fee referred shall be determined by a valid price list, available upon request at the email address sales@editel.cz.

5.5. The discontinuation caused by the events set out in 5.1 shall be terminated one day after it is proved the causes of the discontinuation have ceased to exist. It is acknowledged by the Customer that if the cause of the Services discontinuation was on the part of the Customer, the Services shall be reactivated no sooner than at the date of payment of sums due and the Services reactivation fee.

## **Article 6. Limitation on Damages and Indemnification**

6.1. EDITEL CZ s.r.o. shall be liable to the Customer for damage suffered by the Customer as a result of its wilful or negligent conduct in relation to the performance of this contract with the Customer or Accepted Order. The total amount of the prospective indemnification shall not exceed the aggregate amount corresponding to the total amount of the performance during the given calendar month.

6.2. EDITEL CZ s.r.o. shall not be liable for the damage as a result of incorrect or unauthorised use of the Services by the Customer, for the operation contrary to the terms set out in the contract with the Customer, in Accepted Order, Service Schedules or the General Terms and Conditions.

6.3. EDITEL CZ s.r.o. shall not be liable for damage caused, primarily by:

- a breach of the Customer's obligations under the Contract with the Customer, Accepted Order, Service Schedules or the General Terms and Conditions;
- any act or malfeasance of a third party supplying the Customer with products or services required by the Customer in relation to the use of the Services;
- any act of the Customer, the Customer's employees, representatives or contractual partners;
- the Customer's breach of copyright, rights of personal data protection or rights to the information sent through EDITEL CZ s.r.o. by the Customer;
- a breach of patent, or other industrial property, rights, caused by using the equipment and systems of the Customer in connection with the equipment and services provided by EDITEL CZ s.r.o.;
- incorrect installation of the programme by the Customer;
- installation, operation or maintenance of software, hardware, firmware or other equipment not delivered by EDITEL CZ s.r.o.;
- transmission and receipt of signals through the Customer's equipment not delivered by EDITEL CZ s.r.o.

6.4. Furthermore, EDITEL CZ s.r.o. is not obliged to pay damages caused by, namely:

- unauthorised access to the telecommunication and other equipment placed within the Customer's facilities,
- change or destruction of data files, programmes, or other equipment; methods; or leakage of Customer's information caused by: an accident, unauthorised access, or illegal or improper means. Cases when these were proven to be directly caused by EDITEL CZ s.r.o. represent an exception.

## **Article 7. Confidentiality**

7.1. Neither contractual party shall disclose any information received from the other party, unless the content or the character of the information suggests otherwise. Neither of the contractual parties shall distribute such information or make it available to third parties without the written consent of the other party. The obligation of confidence extends to the termination of each Accepted Order as reasonably applicable.

The obligation of confidentiality herein shall not extend to any information which:

- is or shall be generally available to the public otherwise than by reason of a breach by the recipient party of the provisions herein;
- is known to the recipient party and is at its free disposal prior to its receipt from the other party;
- is required by the law to be disclosed.

## **Article 8. Governing Law and Dispute Resolution**

8.1. These General Business Terms and all Accepted Orders performed hereunder shall be governed by the laws of the Czech Republic.

## **Article 9. Termination**

9.1 Save as otherwise expressly provided in the Accepted Order, each Accepted Order shall be made for an indefinite period starting from its effective date. Each contractual party shall be entitled to terminate an Accepted Order by giving prior written notice to the other party, without justification, with the notice period being 3 months, starting on the first day of the month following the month of the date of delivery of the notice to the other contractual party. Should the notice be handed in by the Customer, the Customer shall not be entitled to claim the remaining part of the already paid fees, unless the relevant law<sup>1</sup> restricts EDITEL CZ s.r.o. from keeping the fees. In such case, the paid fees shall be returned to the Customer only to the minimum extent required by the relevant law.<sup>1</sup>

## **Article 10. Personal Data Protection according to the EU General Data Protection Regulation (GDPR)**

10.1. EDITEL CZ s.r.o., by provision of its services, enables the Customer to communicate via its communication platform, its data operations, and subsequently to archive data. Within these services, the prerequisites are created for transmission or archivation of personal data according to the GDPR (Article 4) (hereinafter referred to as the “data”). EDITEL CZ s.r.o. is, to that extent, the Processor of data according to the GDPR (Article 28).

10.2. The decision to carry out data transmission, the choice of the recipient and the content of stored or transmitted data and, in the case of archivation, the content of archived data, shall be made by the Customer themselves.

In view of the above considerations, EDITEL CZ s.r.o. undertakes

- to enable secure data transmission, data being transmitted exclusively to the recipient clearly stated by the Customer;
- to prevent, by means of the state of the art technologies, the access by any unauthorized third persons (third parties) in order to guarantee discretion and confidentiality;
- to provide, in the case of data archivation, the space for organized data storage and, furthermore, to enable the archived data to be transferred to another (external) location selected by the Customer.

EDITEL CZ s.r.o. shall ensure confidentiality and integrity, or data security and confidentiality (protection against unauthorized or unlawful processing and accidental loss, destruction or damage) with regard to the processing of personal data according to the GDPR (Article 4 (2)) and, accordingly, shall also adopt the GDPR (Article 32) measures necessary to establish the adequate level of security appropriate to the risk as well as regular testing, assessment and evaluation of the effectiveness of technical and organizational measures in place to ensure data processing security.

10.3. The content of stored or transmitted data and the purpose of data storage or the purpose and choice of the recipient of transmitted data shall be decided solely by the Customer on their own responsibility as the Controller according to the GDPR (Article 24). EDITEL CZ s.r.o. does not know the content of transmitted messages and is not responsible for the choice of the data recipient. This implies that EDITEL CZ s.r.o. shall not be obliged to provide Customer with assistance in relation to the processing of data, which by its nature and extent exceeds the use of the communication and archiving services and related storage and transmission of data or the content of data thus stored or transmitted.

10.4. The Customer agrees that data stored within the archiving services and data relating to the individual persons stored and transmitted within the communication services provided by EDITEL CZ s.r.o. have been processed legally, fairly and transparently according to the GDPR (Article 6).

10.5. EDITEL CZ s.r.o. shall provide the Customer with necessary assistance within the use of communication services in accordance with the Agreement and with support in compliance with the transparency of data provision policy, so that the Customer can meet the data subject's claims to access the relevant personal data in addition to the content of data being transferred. If necessary, EDITEL CZ s.r.o. shall also provide the Customer with assistance within the use of communication services in the cases of personal data breach according to the GDPR (Article 33 (1)) and personal data breach according to the GDPR (Article 34 (1)).

10.6. In the event that EDITEL CZ s.r.o. finds, within the framework of its powers, the evidence of personal data breach in connection with data processed by the Customer, EDITEL shall, without undue delay, disclose this to the Customer in accordance with the GDPR (Article 33 (2)). Furthermore, the Customer is solely responsible for the fulfillment of the data subjects' rights under the GDPR (Article 12).

10.7. The Customer grants their consent to EDITEL CZ s.r.o. to ensure the provision of communication services between the customers by using the sub-processor, for which EDITEL is liable within the scope of its responsibilities. EDITEL CZ s.r.o. shall inform the Customer of any planned changes, replacements or selection of new sub-processors.

10.8. EDITEL CZ s.r.o. shall ensure that all persons, who carry out its activities, respect confidentiality.

10.9. The customer is liable to EDITEL CZ s.r.o. for the persons whom EDITEL, by the Customer's authority, authorizes to digitally sign documents within the communication platform, and also for the persons appointed by the Customer as potential recipients of these signed documents, to have always consented to processing of personal data according to the GDPR (Article 7).

The Customer shall always delete personal data, if the person concerned withdraws their consent in terms of the GDPR (Article 21) or if it can be excluded that digital signatures have been processed for that person, or if the person identified by the Customer as a potential recipient withdraws their consent, or if this person, who is the potential recipient of the signed documents, terminates their employment, the Customer is obliged to notify EDITEL CZ s.r.o. without delay to carry out the deletion.

10.10. The Customer shall guarantee to EDITEL CZ s.r.o. that the persons whose data the Customer provides within the contractual relationship, in particular within the performance of the contract, the bookkeeping the accounting of services, the maintenance and consulting services EDITEL CZ s.r.o. has provided or is supposed to provide as part of the information exchange, for reporting and information, even if this information is provided in a permissible manner for marketing purposes, and in the case of being contacted by EDITEL CZ s.r.o. for requests, or by persons contacting EDITEL CZ s.r.o. on behalf of the Customer, have always consented to the processing and storage of their data by EDITEL CZ s.r.o. and the use of these data by EDITEL CZ s.r.o. for the purposes as required by the GDPR (Article 7). Conversely, EDITEL CZ s.r.o. guarantees to the Customer that the persons, whose data are provided by EDITEL CZ s.r.o. to the Customer in connection with their contractual relationship, have agreed to the recording, storage and use of data being processed.

10.11. The relevant person's data must always be deleted by the Customer or by EDITEL CZ s.r.o., if that person expressly withdraws their consent or no longer act as a contact party within the contractual relationship, of which the Party shall notify the other Party within the reasonable period of time.

## **Article 11. Final Provisions**

11.1. Each modification, change, amendment or addition or cancellation of any provision under these General Business Terms or any Accepted Order shall become effective only if duly agreed in writing by the authorised representative of the Customer and EDITEL CZ s.r.o.

11.2. Neither contractual party shall be authorised on the basis of any Accepted Order issued under such contract to act as a representative or otherwise on behalf of the other party.

11.3. The Customer shall not assign or transfer any rights and obligations arising from the contract with EDITEL CZ s.r.o. or Accepted Order without the prior written consent of EDITEL CZ s.r.o. (which shall not be refused or

delayed without justification), but the Customer may, without the prior consent of EDITEL CZ s.r.o., transfer his/her rights under any Accepted Order in full or in part to any entity controlled by the Customer , any entity controlled by the same entity as is the Customer, or any entity controlling the Customer. EDITEL CZ s.r.o. shall be entitled to unilaterally transfer the rights against the Customer or the Customer receivables, in accordance with the Agreement or the Accepted Order.

11.4. Each right granted by EDITEL CZ s.r.o. to the use of the Services by the Customer shall be strictly limited to the Customer's sphere. The Customer shall not sell such right and shall not make available in any manner the Services provided to the Customer to any third party, except for cases agreed upon in writing between the parties.

11.5. Should the Customer receive during the provision of the Services, data or messages which are not meant for him, he shall notify EDITEL CZ s.r.o. about this event without due delay and delete this data or messages from his system. The Customer shall keep confidential the content of this data or messages.

11.6. The Customer shall not be entitled to use the Services for other than the purposes for which they were meant, or use the Services in such a manner as would directly or indirectly breach legal regulations or the provisions of this contract, nor shall he interfere in any technical manner with the provided Services, unless the Customer's interferences are explicitly allowed by effective legal standards. The Customer further undertakes not to allow the misuse of the Services by: acquiring or attempting to acquire unauthorised connection to the system, system interference, manipulation, fraudulent act or other illegal means and devices.

11.7. The contractual parties undertake to observe, during the provision and use of the Services, the rules of communication with other users of communication services by EDITEL CZ s.r.o. and/or the rules of communication between the contractual parties, strictly use the formats of message protocols and security rules defined in the contract with the Customer or Service Schedules and related documents.

11.8. The contractual parties undertake mutually that, in the case of disputes or administrative procedure, they shall consider the data log being an historical summary of transmitted messages installed in the systems of both contractual parties, as evidentiary material of full value, unless proved otherwise.

11.9. The Customer declares that he/she has carefully read these General Business Terms before issuing the Order. By issuing the Order he/she expressly agrees to them, within the meaning of §1753 of the Civil Code of Czech Republic.