

General Terms and Conditions for Purchase, Leasing and Service Contracts for Communication & Collaboration Services of Mitel Austria GmbH (hereinafter "Mitel")

1. Preliminary remarks

- 1.1. These General Terms and Conditions apply to purchase, leasing and service contracts concluded between Mitel and the respective contract partner of Mitel (referred to hereinafter as "the Customer") and containing references to these General Terms and Conditions. The parties agree explicitly that the general terms of business of the Customer shall not apply, save where Mitel issues a written declaration to the contrary.
- 1.2. Offers issued by Mitel are without engagement. The contract shall be deemed concluded once Mitel, after receiving a purchase order, has issued a written order confirmation or has dispatched a consignment of goods or provided a service.
- 1.3. All installation work shall be performed without interruption during normal working hours. Services outside normal working hours as well as differences and changes to the attached service scope shall be invoiced separately. Installation includes the travel time for a single service visit. The travel time for a second service visit shall be invoiced separately if such a visit is required by the Customer.
- 1.4. Contract fulfillment by Mitel is subject to the proviso that it is not impeded by hindrances due to national or international foreign trade laws or embargos and/or other sanctions.
- 1.5. Mitel shall retain ownership of all goods and services it supplies until such time as the invoice amounts, together with any interest and costs, have been paid in full.
- 1.6. The Customer will be represented by his contact person; the Customer has to be accountable for his actions towards Mitel. A change in the person of contact and its possible withdrawal from the company of the Customer has to be communicated directly to Mitel. This also applies in the case of web offers (e.g. webportal), in which the Customer is represented by registered users.

2. General: service, remote maintenance, data protection, installation, participation/provision by Customer

- 2.1. Mitel shall maintain the leased equipment for as long as a leasing contract remains in force. Mitel shall maintain purchased equipment if and for as long as a service contract remains in force. Service includes:
 - the maintenance and testing of the system in accordance with technical requirements;
 - the rectification of faults and damage;
 - the provision of the measurement and monitoring devices and special tools required for service purposes.

Insofar as the parties have agreed an extended service scope or a service scope that differs from the service to be provided by Mitel, this shall be defined in the contract and its annexes.

- 2.2. As long as Mitel remains bound by its service obligation, the Customer shall have all service and other work on the leased or purchased equipment (such as extensions) performed only by Mitel or with the approval of Mitel. Mitel requires remote access to the leased or purchased equipment in order to provide the agreed services. By signing the contract, the Customer gives its irrevocable consent to the setup and maintenance of such access. Therefore the Customer has to provide a broad-band internet access (securing an available upload of at least 1 MBit/second) and also has to activate the required cableways and authorizations for the link connection to the Mitel Service Center. Such access enables the transmission of diagnostic data and, where possible, allows Mitel to rectify faults remotely and implement, subject to a charge, changes required by the Customer to the service scope and the user data. Upon expiry of the service obligation, the facilities required for remote maintenance shall be deactivated.
- 2.3. The Customer is responsible for the regular control of security advisories, provided by Mitel through the Web

Support Portal as well as for the separate assignment with costs with the implementation of Security Patches/Updates.

- 2.4. Insofar as personal data is stored or otherwise processed, Mitel shall comply with instructions issued by the Customer and shall take the necessary technical and organizational measures to protect the data against misuse. These obligations shall remain in force even after termination of the contract.
- 2.5. The Customer shall make appropriate installation areas available and shall provide the relevant documents such as system descriptions, user manuals, system documentation and network or building plans. The Customer shall further meet the network requirements for voice over IP (VoIP) which are known to the Customer, and make available a suitable connection, together with the necessary authorizations for accessing the public communication network, a LAN connection, internet access, a power supply, operational earth as well as the necessary transmission technology in the vicinity of the equipment, and shall grant the Mitel employees access to the relevant sites, buildings and communication facilities. The Customer shall also comply with the technical requirements, such as the necessary LAN access, the clearing of necessary ports in the firewall as well as the interoperability of the assigned applications with the Customer environment (e.g. operating system, browser etc. in the required version). Customer data and IP addresses have to be provided by the Customer prior to the installation. If the Customer data has to be determined in the course of the installation, the incidental additional costs will be invoiced separately. The bringing into service of end devices includes the deployment and the forepoling, but does neither include the pulling of the connection-cord into an available cable trench nor the key legend on the end device. These services will be invoiced separately. Patch cable in adequate quantities and length have to be provided by the Customer, unless part of the order/contract. Radio detecting and ranging (DECT/WLAN) shall be invoiced separately on a time and materials basis, unless not part of the order/contract. If the hardware is provided by the Customer, the basic installation (e.g. PC incl. Operating System) has to be performed by the Customer. If requested this can be performed by Mitel and charged separately. In this case the necessary admin rights have to be provided by the Customer. The transfer and/or storage of the communication- and user-information and customized settings (e.g. call diversions, quick dialing) from the no longer used Systems (subsequently named "existing system(s)") to the new systems, the deletion of system- and userdata in the existing system as well as the roll-out of client-software are not included in the order/contract.
- 2.6. The dismantling and the disposal of existing systems incl. accessories will be charged separately on a time and materials basis, unless not part of the order/contract.
- 2.7. Regular backup is not included in the contractually agreed services. On request, Mitel shall perform a backup against remuneration on a costs-incurred basis.
- 2.8. Mitel reserves the right to refuse to provide services for products for which product support has been discontinued (end of support) and to amend its service level agreements in accordance with changes made by the manufacturer (such as changes to the supply of spare parts).
- 2.9. Mitel is not liable for errors or failure to functionalities that are attributable to the non-fulfilment of required participation and provision obligations by the Customer. In such cases, Mitel is entitled, while maintaining the demands on the Customer, to suspend the contracted performance. Any resulting additional expenses of Mitel shall be invoiced separately to the Customer.

3. Leasing contract: leasing fee, liability of the lessee, duration and termination, extensions, early contract termination

- 3.1. The leasing fee includes the service charge for the leased equipment. Mitel shall however invoice the following items separately at its applicable list prices:
 - On taking over service responsibility for equipment already in operation or on recommissioning such equipment: initial testing and any repairs to the equipment that may prove necessary
 - Changes required by the Customer, such as changes to the service scope, user data or place of installation, MACs (Moves, Adds & Changes) or changes required

by a public authority or the public network operator (such as Telekom)

- Services provided at the request of the Customer outside the normal Mitel service times (normal service time is currently Monday – Friday, 08:00 – 16:00, except public holidays), save where such work is covered by an extended service agreement
- Diagnosis and/or rectification of faults or damage caused by non-reproducible errors, improper handling or other circumstances for which Mitel is not responsible (such as failure to comply with the network requirements for VoIP, which are known to the Customer, , changes made by the Customer in the network or server environment, computer viruses, limitation or unavailability of access to the public communication network caused by the relevant provider, or deterioration of components not covered by the contract)
- Additional costs resulting from the deactivation of the remote maintenance access or the limitation of its functionalities
- Replacement of used batteries and accumulators of communication equipment and communication terminal devices (such as cordless telephones) and consumables (such as connection cables, data storage media and similar)
- Packing, dismantling (including dismantling of existing systems), return transport (including transport insurance), final inspection and disposal
- New software versions (software upgrades: replacement or upgrade of previous software with a new software version (release)) containing extended functionality (features and functions), whose implementation and the associated hardware adaptations; the operating system for application software is not included in the service scope
- Updates (software corrections, hot fixes, security patches for the debugging of security vulnerabilities, software patches and similar) that are not provided in connection with a fault and the implementation of these Updates; the operating system for application software is not included in the service scope
- Backup of Customer and equipment data
- Additional costs such as travel costs, journey times, waiting times and out-of-pocket expenses that are incurred as a result of delays, obstructions or interruptions for which Mitel is not responsible shall be invoiced as incurred.

Exception: An above quoted service is explicitly included in the scope of work of the contract according to an annex to the contract.

- 3.2. The Customer is liable for the damage and loss of the leased equipment, including all accessories, irrespective of the cause of such damage or loss and even in cases of force majeure.
- 3.3. The leasing contract is concluded for an unlimited period and may be terminated in writing subject to a notice period of 3 months to the end of a given calendar year. The Customer waives the right to terminate the contract for the period specified in the contract. If no specific waiver of termination is agreed in the contract, the Customer's waiver of termination shall end 7 years after expiry of the calendar year in which the system was rendered ready for operation.
- 3.4. Even the complete destruction of the leased equipment shall not result in the cancellation of the leasing contract. If Mitel is to blame for the destruction of the leased equipment, Mitel shall in this case have an obligation to restore the system within a period of four weeks.
- 3.5. If, before expiry of the Customer's waiver of termination, a leased system is extended within the available scope without the need for replacement or if additional equipment is installed or new features activated, either the duration of the waiver of termination shall be extended for the entire system or the Customer shall pay a once-only surcharge for the extension in addition to the leasing fee according to the following overview. The surcharge shall be calculated on the basis of the annual leasing fee for the extension, multiplied

by a factor dependent on the remaining years of the agreed waiver of termination, including the current year.

Leasing fee for the extension as a percentage of the current total leasing fee for the existing system	Contract years outstanding					
	1	2	3	4	5	≥6
Up to 25%: Surcharge = annual leasing fee for extension x factor	2.58	2.0	1.48	1.02	0.62	0.26
Over 25%:	Extension 2 years			Extension 1 year		

- 3.6. If the system is extended after expiry of the waiver of termination, the same applies as for the final year of the waiver of termination. Where extensions consist of second private branch exchanges, personal computers, notebooks or similar equipment, such equipment shall be leased for an indefinite period. The Customer waives the right to terminate the contract for the period specified in the confirmation letter.
- 3.7. If, for reasons beyond the control of Mitel, the Customer (or, in the event that the Customer is declared insolvent, the receiver) does not permit an item of leased equipment to be installed within a reasonable period specified by Mitel or declares its final refusal to permit such installation, Mitel shall be entitled to withdraw from the contract. In this case, the Customer shall pay a contractual penalty, irrespective of fault, amounting to one year's leasing fee plus all remuneration due for services already provided.
- 3.8. If an item of leased equipment is relinquished before expiry of the agreed waiver of termination, Mitel may demand contract fulfillment. In the event of early contract cancellation in the course of insolvency proceedings brought in respect of the Customer's assets, Mitel may claim immediate payment of any residual leasing fees (contractual penalty irrespective of fault). These residual leasing fees shall amount to 75% of the remaining leasing fees from the first day of the quarter following the date of contract termination to the expiry of the waiver of termination. If the Customer leases, purchases or otherwise receives for its own use a system from a third party before expiry of the agreed waiver of termination, Mitel may also assert its statutory right to demand contract fulfillment in respect of the leased equipment that has not been installed, restored or surrendered, in which case the Customer shall reimburse Mitel for any storage costs incurred. If the Customer fails to meet its contractual obligations despite receiving a written demand to do so within a reasonable period, Mitel may deactivate or remove the leased equipment at the Customer's expense until such time as the Customer has fulfilled its obligations. Mitel shall be entitled to terminate the contract on important grounds and demand contract fulfillment. Mitel reserves the right to assert all further claims.

4. Service contract: period of validity of the service contract, early termination of the service contract, service charge

- 4.1. The service contract is concluded for an unlimited period and may be terminated in writing subject to a notice period of 3 months to the end of a given calendar year. The Customer waives the right to terminate the contract for the period specified in the contract. If no specific waiver of termination is agreed in the contract, the Customer's waiver of termination shall end 5 years after expiry of the calendar year in which the system was rendered ready for operation or, if the system was already in operation at the time of contract conclusion, after expiry of the calendar year in which the contract was concluded.
- 4.2. Even if a service contract has been concluded, Mitel shall invoice the following items separately at its applicable list prices (see list under Item 3.1).
- 4.3. The service charge shall be set according to the scope of the communication system installed. If components are installed or removed or the system replaced, the service charge shall be adjusted in accordance with the new scope of the system from the day on which it is rendered ready for operation.
- 4.4. If a service contract is terminated before expiry of the waiver of termination for reasons beyond the control of Mitel, Mitel shall be entitled to demand contract fulfillment. If the service contract is terminated prematurely in the course of

insolvency proceedings brought in respect of the Customer's assets, Mitel shall be entitled to claim one third of the service charge that would have been payable by the Customer from the first day of the quarter following the date of termination of the contract to the date of expiry of the waiver of termination. This amount shall become payable immediately after termination of the contract (contract penalty irrespective of fault). Mitel reserves the right to assert all further claims.

- 4.5. Special provisions for Cloud Services ("CS"): The Customer shall grant Mitel an irrevocable, non-exclusive, transferable, sub-licensable, gratuitous and worldwide right to use, reproduce, edit, publish, distribute, execute and display content transmitted by the Customer to Mitel wholly or in part, where this is necessary in order that Mitel can fulfil its contractual obligations to the Customer under this contract. The Customer shall guarantee that he is entitled to grant Mitel the rights listed under this item. Mitel shall assume no responsibility for content transmitted by the Customer. No substantive check of the content transmitted by the Customer to Mitel shall be made by Mitel. The Customer shall indemnify Mitel against all third-party claims and demands filed by third parties against Mitel in connection with the Customer's content. Mitel may block access to CS at any time if the Customer breaches his duties arising out of these terms or if there are grounds to suspect that he has done so, and may delete all materials and contents connected with the breach. Expenses which Mitel incurs as a result shall be charged to the Customer. The rights granted to the Customer to use the CS and the services which he has, for example, been permitted to use (e.g. client software and documentation) shall terminate upon termination of this contract. The Customer shall destroy the services which he has been permitted to use and copies made thereof within a reasonable period of time from the date of termination of the contract or, if Mitel requires this, return them at Mitel's expense to Mitel. The rights of the Customer to the work results, in particular to the processed data, obtained by him using the CS shall remain unaffected. Unless otherwise agreed in the service specifications, the Customer shall be obligated to back up on its own data media the data and contents stored on the systems of Mitel, by no later than the date of termination of the contract; in the event of extraordinary termination of the contract by Mitel, Mitel shall, for this purpose, enable the Customer to back up his data by means of downloading for a reasonable period of time beyond the termination of the contract.

5. Software: rights of use, prices, rectification of software errors

- 5.1. The Customer has the non-exclusive right to use the software provided with the agreed features in connection with the leased or purchased equipment. The Customer shall, for an unlimited time, ensure that the software and the associated documents, including copies and processed, extended or modified versions thereof, do not become known to third parties without the prior written approval of Mitel. The Customer shall copy software or software documentation or modify software only with the prior written approval of Mitel. The Customer is prohibited from reverse engineering or decompiling the software and removing components from it, and shall not remove alphanumeric identifications, trademarks and copyright marks. Where copying is permitted, the Customer shall make copies without modification. The Customer shall identify all copies as such and shall allocate them a serial number that also incorporates the software serial number. The Customer shall maintain records indicating the whereabouts of the copies, and shall permit Mitel to inspect such records on request. Under no circumstances shall the Customer be entitled to relinquish the source code.
- 5.2. Software Products, specifically third party Software or Open Source Software, may be subject to specific license terms of the respective licensor. Such specific license terms will be referred to during the installation routine or in the accompanying documentation. Any installation of the Software is subject to the Customer's acceptance of those specific license terms. In the event that the Customer does not accept the specific license terms, the Customer is not entitled to use the Software. In this case, the Customer may, as the Customer's sole remedy, rescind the contract with regard to the relevant Software Product. The Customer shall return the Software to Mitel. Mitel shall refund to the Customer the license fee paid for the relevant Software Product.

- 5.3. In addition to a price agreed for the provision of the software, Mitel shall invoice the following items at its applicable list prices:

- Work connected with the duplication, translation and generation of software
- Data storage media provided by Mitel
- Analysis and rectification of errors resulting from the improper handling of software or from other circumstances for which Mitel is not responsible
- Support during the introduction or deployment of software
- Supply of updates or upgrades
- "Updates or revisions" are error corrections and minor improvements to the software; "upgrades or subsequent versions" are major modifications and extensions to capacity or functionality.

- 5.4. If a special price is agreed for the provision of software, the Customer shall receive a description (data sheet) for each software product. Only differences between the software and this description are deemed software errors. As long as Mitel is under obligation to rectify a software error, Mitel shall fulfill this obligation by providing a new software version. Until such time as the new software version is provided, Mitel shall provide an interim solution to circumvent the error if this is possible without disproportionate cost and effort and if the Customer is otherwise unable to perform urgent tasks. Mitel shall receive from the Customer all the documentation and information required for rectifying software errors.

- 5.5. If a separate price, payable in regular installments, is defined for the provision of software, the obligation to rectify a software error shall apply until expiry of the contractual relationship governing the provision of software. The contractual relationship governing the provision of software may be terminated in writing subject to a notice period of 3 months to the end of a calendar year, but no earlier than the date of expiry of the waiver of termination specified in the confirmation letter.

- 5.6. If a separate price, payable in a single installment, is agreed for the provision of software, Mitel shall rectify any software errors that occur within 6 months of the provision of the software. If a maintenance price is also agreed for the software, this obligation shall remain in force until expiry of the contractual relationship governing software maintenance. The contractual relationship governing software maintenance may be terminated in writing subject to a notice period of 3 months to the end of a calendar year, but no earlier than the date of expiry of the waiver of termination specified in the confirmation letter. If Mitel is unable to rectify a software error, the right of the Customer to terminate the contract prematurely is unaffected.

- 5.7. If software is identified separately in the confirmation letter, Mitel cannot exclude the possibility that certain combinations of data or functions may give rise to errors during execution or in the results, despite having tested the software under typical operating conditions. Instead of having an obligation to rectify such errors, Mitel shall instead have an obligation only to provide support for the software by providing the Customer on request with error corrections or circumventions of which it is aware. If a separate price, payable in regular installments, is agreed for the provision or maintenance of a software product, Mitel may reclassify the software. 6 months after written notification of such reclassification, the obligation to rectify errors in its previous scope shall be replaced by the obligation to provide software support. If the software has not yet been provided at the time of reclassification, the 6-month period shall not commence until such time that the software is provided. In the event of reclassification, the Customer shall be entitled to terminate the contract prematurely.

6. Prices

- 6.1. The prices for equipment, cabling and installation materials are ex factory, and do not include packing, insurance or installation at the place of operation. The final prices (purchase, leasing, service and installation) shall be determined by the material prices and wages applicable on the date of delivery. All prices are denominated in euros and are net prices exclusive of sales tax at the applicable rate.
- 6.2. The material prices (purchase prices for equipment, cabling and installation materials as well as once-only prices for program provision) are subject to adjustment in the event of price increases in accordance with the structure of a price escalation formula for the telecommunications sector

(variant IV) proposed by the Austrian Electrical and Electronics Industry Association and approved by the Independent Arbitration Committee of the Federal Ministry for Economics and Labor (BMfWA). The installation prices are based on the collectively agreed minimum wage of a member of employee group D (elementary level) of the Austrian electrical and electronics industry. In the event of a change to this minimum wage, the prices shall be adjusted accordingly.

- 6.3. The service charge is based on the collectively agreed minimum wage of a skilled worker (employee group D, elementary level) of the Austrian electrical and electronics industry applicable on the date of conclusion of this contract. In the event of a change to this minimum wage, the service charge shall be adjusted accordingly. The leasing fee is based on the prices for equipment and spare parts and on the collectively agreed minimum wage of a skilled worker (employee group D, elementary level) of the Austrian electronics industry applicable on the date of conclusion of this contract. In the event of a change to these prices or to this minimum wage, the leasing fee shall be adjusted in accordance with the structure of a price escalation formula for the telecommunications sector (variant IV) proposed by the Austrian Electrical and Electronics Industry Association and approved by the Independent Arbitration Committee of the Federal Ministry for Economics and Labor (BMfWA).
- 6.4. All work outside the contractually agreed scope, as well as the installation of a cable network, shall be invoiced by Mitel on a time and materials basis at the material prices and installation rates valid on the date of performance and in accordance with the timesheets confirmed by the Customer. With respect to the installation rates the rates for installation, commissioning and maintenance technicians („Montage-, Inbetriebsetzungs- und Servicetechniker“) (depending on the system either for partially [“teillelektronische“] or fully electronic systems [“vollelektronische Systeme“]) apply.
- 6.5. For package-installations the Customer shall be additionally charged a flat charge for travel costs of EUR 70.
- 6.6. For orders worth less than EUR 300, the Customer shall be charged a processing fee of EUR 40.
- 6.7. Packing and delivery shall be invoiced separately. For transport and packing, the Customer shall be charged a certain percentage of the order value (excl. services), dependent on the order-volume and the place of delivery, according the following table:

Order volume	Deliveries within Austria	Deliveries within European Union (EU)	International Deliveries (outside EU)
from	Percentage	Percentage	Percentage
< 50.000€	1,5% (min. 15 €)	2% (min. 30 €)	6% (min. 100 €)
>= 50.000€	1% (max. 5.000 €)	1,5% (max. 7.500 €)	4% (max. 20.000 €)

7. Conditions of payment

- 7.1. The leasing fee, the service charge and other regular payments shall become due immediately for the remainder of the current calendar quarter and then quarterly in advance (but no later than 10 days after the invoice date). This condition of payment shall apply from the date of acceptance of the equipment (see Item 9) or, if Mitel has not undertaken the installation, from the date of delivery of the equipment or, if the equipment is already in operation at the time of conclusion of this contract, when the contract is concluded.
- 7.2. The purchase price and other non-recurring payments shall become due without deduction as soon as the goods or services have been provided and the invoice received by the Customer. If, however, the purchase price including installation exceeds EUR 3,000, Mitel may invoice 50% of the price upon conclusion of the contract and the remainder immediately after delivery / provided services.
- 7.3. Partial invoices according to the progress of performance are allowed.
- 7.4. The Customer is not permitted to offset claims of Mitel with counterclaims of any kind whatsoever. Neither is the Customer authorized to withhold amounts or refuse to relinquish leased equipment including all accessories to Mitel on the grounds of such claims.
- 7.5. The deliveries and services specified under Items 3.1 and 5.3 shall be invoiced on a time and materials basis, including travel and waiting times, at the applicable list prices and the

installation rates of the Austrian high and low-voltage industry valid at the time of service provision.

- 7.6. Should the Customer's default in payment exceed 14 days, Mitel shall have the right to cease the provision of all Services and delivery of goods without prior notice to the Customer. Furthermore, Mitel shall be entitled to make the compensation for all services and goods provided immediately due and payable, notwithstanding any agreed upon payment dates. Upon the occurrence of any one of the events described in lit. (a) to (c) during contract duration, Mitel shall be obliged to fulfil any outstanding supplies or services only in consideration of payment in advance or on the provision of a security. In the event the Customer does not comply with a respective demand by Mitel, Mitel shall be entitled to grant a reasonable period of grace for the advance payment or the provision of the security, and following the fruitless expiry of this grace period Mitel shall be entitled to withdraw from the contract and/or claim compensation for damages or reimbursement of expenses.
- The Customer's delay of payment by more than 60 days
 - The Customer's delay of payment of at least three invoices over any period of six consecutive months by more than 30 days
 - The Customer's credit ratings as issued by Moody's, S&P, Fitch, Duff & Phelps or an equivalent agency drops to BB/Negative or below, or in the case of a Dun and Bradstreet rating, 4 (four).

A conversion to the former payment terms will be effected after a period of 24 months subject to Customer's credit rating exceeding the thresholds of lit (c).

- 7.7. The Customer explicitly agrees that Mitel shall be entitled to use the service of Affiliated Computer Services of India Private Limited, a company of the Xerox Group ("Xerox"), for invoicing purposes and to transfer the data as listed in the standard application SA001 of the Austrian Standard and Model Ordinance 2004 (as amended from time to time) to Xerox provided that Mitel commits Xerox to confidentiality. The Customer further agrees that MITEL may also use the invoicing services of other third parties, provided that Mitel immediately informs the Customer about the use of such third party and commits the third party to confidentiality.

8. Liability

Mitel has unlimited liability for any personal damages for which it is responsible. In the event of damage to property for which Mitel is responsible, Mitel shall reimburse the costs of restoring the property up to a maximum amount of EUR 10,000 per claim - in total up to an amount of EUR 100,000. The limitation of these claims is 12 months from the start of the statutory limitation period. Save in cases where liability is not compulsory by law the Customer shall not be entitled to assert claims for damages other than those specified explicitly in this contract, irrespective of their legal basis, in respect of direct or indirect damages, including in particular claims relating to consequential damages, purely pecuniary loss, loss of production, loss of profits, loss of information and data, or loss of interest. Under no circumstances shall the total aggregate liability of Mitel towards the Customer under this contract exceed 50% of the revenues due under the contract in case the contract duration is less than 2 years. In case the contract duration exceeds two years the total aggregate liability of Mitel towards the Customer under this contract shall not exceed 50% of the revenues due in the first contractual year.

If penalties or price reductions (e.g. service credits) are agreed, the total aggregate liability limit defined above shall also include claims for such penalties and price reductions (e.g. service credits). Any damage claims exceeding such penalties or price reductions (e.g. service credits) are excluded. The communication system installed or serviced by Mitel (or third parties, commissioned by Mitel) is protected from misuse under current knowledge and according to the last state of the art. Such abuse of the communication system cannot be completely excluded due to technical reasons. Mitel assumes no liability for damages or costs incurred by the Customer through abuse of the system, in particular for incidental call-charges in connection with so-called "Gebührenmissbrauch" cases and "Toll fraud" attacks. In this regard, Mitel recommends to the Customer the establishment and updating of security mechanisms and the compliance with the safety information, provided by Mitel through

the Customer Support Portal (CSP). This is the sole responsibility of the Customer.

9. Acceptance/risk transfer

- 9.1. Installation and commissioning deadlines confirmed by Mitel have to be met by the Customer, otherwise (at delay for which the Customer is responsible) Mitel will directly charge the full purchase price and the risk of delivery items shall pass to the Customer. The Customer shall accept the system at the agreed time, but no later than 14 days after Mitel has issued notification of completion, and shall at the same time sign an acceptance report. The acceptance report shall contain at least the date of acceptance and a list of minor defects that, although they do not constitute grounds for delaying acceptance, must be rectified by Mitel within a period also to be defined in the acceptance report. The following defect classes are agreed:

Defect class	Description	Explanation
1	Critical	The defect prevents or limits to an unreasonable extent the use of part of the system for the intended purpose. The defect has a serious effect on business processes and/or security.
2	Severe	The defect limits to a significant extent the use of part of the system for the intended purpose. The defect has a serious effect on business processes and/or security, but work can be continued (e.g. incorrect or inconsistent processing or similar).
3	Slight	The defect limits to a slight extent the use of part of the system for the intended purpose. The defect has only a slight effect on business processes and/or security, enabling processing to continue without restriction.
4	Trivial	The system can be used for the intended purpose without restriction. The defect has only a trivial effect or no effect at all on business processes and/or security. These are above all cosmetic defects or defects that the Customer's employees can circumvent themselves.

- 9.2. A defect shall be classified as a minor defect if it meets the criteria for defect class 3 and/or 4. Minor defects shall not constitute grounds for the Customer to refuse acceptance. Save where otherwise agreed, the Customer shall bear all costs associated with the acceptance procedure. If acceptance is delayed for reasons beyond the control of Mitel, the system shall be deemed accepted or delivered after expiry of 14 days from the notification of completion by Mitel or, for standard product business, after expiry of 2 months from notification of readiness for dispatch by Mitel. In the latter case, the Customer shall reimburse the storage costs to Mitel. In all cases, the system shall be deemed accepted upon commencement of use in accordance with the intended purpose.
- 9.3. At the time of acceptance, the risk shall pass to the Customer and the warranty period shall commence. Partial acceptance and partial invoices are allowed. In the event of partial acceptance, the provisions of this item shall apply to the part of the system affected. For standard product business, risk transfer shall take place at the time of dispatch from the plant or warehouse and the warranty period starts with delivery.

10. Warranty

- 10.1. Mitel warrants that it shall supply goods and services in accordance with the contract. The warranty period is, with exception of the components mentioned in 10.2., 12 months from delivery respectively acceptance in each case. If defects arise during the warranty period, Mitel shall at its own discretion either repair or replace the items or reperform the services concerned free of charge, provided that the Customer issues written notification of such defect without delay or no later than 14 days after its identification.
- 10.2. A 6-month warranty period applies to parts subject to wear, such as accumulators and batteries, and to software. The warranty obligation for software applies only to software released by Mitel within the framework of programs released by Mitel. The warranty obligation for software does not apply to software released by Mitel within the framework of programs not released by Mitel.
- 10.3. The warranty obligation of Mitel does not however include defects attributable to goods or services provided by the Customer (e.g. caused by non-compliance with the network requirements for VoIP), normal wear and tear, improper use and incorrect or negligent handling, excessive stress and strain, the use of unsuitable equipment, failure of the

Customer to comply with operating or maintenance instructions, force majeure or certain external influences not foreseeable under this contract. In the event of improperly executed modifications by the Customer or third parties, the Customer shall not be entitled to assert any warranty claims against Mitel in respect of such modifications and any consequences arising therefrom. Mitel shall rectify software errors only if they are reproducible and inhibit functionality, and only if the software has been used or deployed in accordance with the applicable installation requirements and conditions of use. When enforcing a claim in respect of a defect, the Customer must provide evidence that these prerequisites have been met. All ancillary costs connected with the rectification of defects (such as the costs of installation and removal, transport, disposal, travel and travel times) shall be borne by the Customer. To support Mitel in carrying out work under warranty on the Customer's premises, the Customer shall provide the necessary auxiliary personnel, lifting equipment, scaffolding, incidental materials and similar resources free of charge. Replaced parts shall become the property of the seller.

- 10.4. If Mitel replaces purchased items for the purposes of fulfilling an order placed by the Customer, the replaced items shall become the property of Mitel and the replacement items supplied shall become the property of the Customer at the time of replacement.
- 10.5. Claims in respect of defective service provision shall be asserted exclusively in accordance with the provisions of this item without possibility of recourse to Sections 924 (2 and 3) and 933b of the Austrian Civil Code (ABGB).

11. End of Life

- 11.1. Mitel's hardware and software products are subject to continuous development. This means that some products are regularly replaced by improved products or are superseded by successor products.
- 11.2. Once a product reaches the designated milestone for the completion of the manufacturer's development assistance as per the product life cycle plan, the agreed scope of the service could be adjusted so that
- reported incidents can no longer be completely processed or resolved, or
 - Mitel will, within Mitel's operational capabilities, only provide general and product independent support, or
 - in order to continue to receive the full scope of the services, a paid upgrade to the then current version of the relevant product must be obtained, or, if applicable, a successor product must be obtained.
- 11.3. This has already been reflected in the remuneration for the services.
- 11.4. Upon request of the Customer Mitel will examine if for that individual Customer a time-limited extension of the development support for a Mitel product (Extended Manufacturer Software Support - EMSS) can be realized, which is also subject to payment of a separate remuneration. Details of EMSS are then agreed individually.
- 11.5. For independent third-party products, such as operating systems or active network components and even if the Customer acquired them together with Mitel products, this section shall apply accordingly, but with the proviso that the relevant product life cycle planning and the resulting availability of support services is determined solely by the terms of the respective third party manufacturer. Mitel will endeavor to offer the Customer, or arrange for the third party manufacturer to offer to the Customer, services similar to EMSS which may possibly be offered by the third party manufacturer.
- 11.6. If the services provided for the products are restricted or suspended as a result of the adjustment of the manufacturer's development assistance, or if, with regard to hardware, Mitel's stock of spare parts for the relevant product is exhausted, and thus the provision of the agreed scope of the services becomes either permanently impossible or is no longer economically justifiable, the contract can be adjusted appropriately.
- 11.7. The term and the scope of Mitel's warranty obligations shall not be limited by the provisions of this section.

12. Force Majeure

- 12.1. Neither Party shall be responsible for delays or failure to perform any of its obligations herein (other than payment obligations) resulting from or in connection with acts, events or circumstances beyond the reasonable or foreseeable control of such Party. Such acts shall include, but shall not be limited to, acts of God (including earthquakes, hurricanes and volcanic eruptions), strikes, lockouts, riots, civil unrest, civil protests, acts of war, epidemics (including communicable disease outbreaks and public health emergencies), governmental regulations superimposed after the fact, fire, communication line failures, power failure, or other disasters, whether such acts have been identified, declared or accepted as such under the relevant law or not.
- 12.2. In such circumstances as listed above, the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed, provided that if in the reasonable opinion of the Affected Party performance of the Agreement is substantially prevented for a continuous period of six (6) months from the date on which such performance was initially due by virtue of any of the aforesaid events, then either Party may terminate this Agreement by written notice to the other.
- 12.3. Both Parties will use all reasonable endeavors to mitigate the effect of the Force Majeure Event on the performance of its obligations. In particular, the Parties will cooperate in good faith to adopt together some mitigation measures in order to decrease the impact of the Force Majeure Event, such as remote working, off or nearshoring, etc, as far as they are proportionate, adequate and in compliance with the law.

13. Contract amendments, contract fulfillment, place of jurisdiction

- 13.1. As far as any events have material impact on the economic relevance or content of the delivery or service or on the operation of Mitel, the contract shall be adapted in good faith. As far as such adaptation is not economically reasonable for Mitel, Mitel shall be entitled to cancel the contract. The same applies if necessary export permits are not granted or cannot be used. If he intends to exercise his cancellation right, he shall inform the customer without delay after becoming aware of the consequences of the event, even if an extension of the delivery time has been agreed beforehand.
- 13.2. Any ancillary agreements and amendments to this contract shall not become valid unless made in writing.
- 13.3. Mitel is entitled to transfer the rights and obligations from this contract to a third party. Upon application by the Customer and subject to the approval of Mitel, a third party may enter into the contract and assume all rights and obligations defined therein. In this case, the Customer shall pay a reasonable fee to cover the additional cost and effort thus incurred.
- 13.4. Austrian substantive law applies without possibility of recourse to the UN Convention on Contracts for the International Sale of Goods or any conflicts of law provisions.
- 13.5. In the event of disputes in connection with this contract, the parties shall attempt, in fair dealing and in good faith, to settle such dispute by means of agreement between the persons responsible for the project. Each party may demand that a representative of top management participate in the negotiations on each side. Each party reserves the right to declare an end to the negotiations in writing to the other party and to demand the instigation of an alternative conflict resolution procedure.
- 13.6. If the parties fail to reach a consensus as described above, they shall attempt to agree on an alternative conflict resolution procedure (such as mediation, conciliation or arbitration). If, despite such attempts, the parties fail to reach a consensus within 14 days after the failure of negotiations as described above or if the alternative conflict resolution procedure does not result in the resolution of the conflict within two months of its instigation, either party may initiate legal action. The place of jurisdiction is Vienna.

14. Miscellaneous

- 14.1. Agreement in accordance with the Data Protection Act in its currently valid version: By signing the contract or order, the Customer agrees that the data from this business transaction may also be transmitted to third parties involved in the processing of the business transaction and to other Mitel-companies for the purposes of consolidated reporting.

- 14.2. In the event that individual items of this contract are legally ineffective or unenforceable for legal reasons, the validity of the remainder of the contract shall remain unaffected. In this case, the parties shall arrive at an agreement that most closely approximates the ineffective or unenforceable provisions in terms of their legal and business outcome.
- 14.3. The Customer shall bear all contract fees payable in the event of contract conclusion. The parties declare that they are entrepreneurs within the meaning of the Consumer Protection Act in its currently valid version.