

## General Terms and Conditions for Service Agreements of Kapsch BusinessCom AG

### 1. General

**1.1** The present General Terms and Conditions for Service Agreements (hereinafter referred to as GTC-Service) shall, together with the respective service ticket and the other annexes and conditions of the underlying offer of Kapsch BusinessCom AG, constitute the sole contractual basis (hereinafter referred to as service agreement or agreement) of Kapsch BusinessCom AG 1120 Vienna, Wienerbergstraße 53 (company register n° 178368g) (hereinafter referred to as “Kapsch”), and shall govern the performance of services (hereinafter referred to as “service”) for the principal. In case of rental services and services rendered by Kapsch Financial Services GmbH the respective service performance shall additionally be based on the provisions of the framework lease agreement as well as the supplementary lease and service tickets which shall prevail in case of doubt. Service may be performed in the form of service or work performance. Unless agreed otherwise in the service agreement, services shall be performed as services.

**1.2** The present GTC-service shall apply with regard to all services which Kapsch performs for the principal even if with a later conclusion of individual agreements no explicit reference is made thereto.

**1.3** Subsidiary agreements, amendments and supplements to the present GTC-service, to the service agreement as well as any and all declarations made in this context shall require written form. The same shall apply to the abandonment of the written form clause. Oral subsidiary agreements do not exist.

**1.4** General Terms and Conditions of the principal shall not become part of the service agreement content even if they are attached for example to offer requests, orders or acceptance declarations and even if they are not objected, unless Kapsch has explicitly acknowledged them in writing.

### 2. Scope of performance

**2.1** Kapsch shall perform services for the principal in compliance with the respective Service Level Agreements (SLA) which amongst others determine manner, quality, scope, system requirement of the services. Kapsch shall be entitled to adapt services to the current state of the art provided that the agreed service levels are still achieved.

**2.2** Kapsch shall perform the services on the basis of the information which has been provided to them by the customer. The customer shall be responsible for the choice of the service as well as for the results strived for and achieved by the application of the service. Kapsch shall in particular not be responsible for the provision of security-related services or appropriate consulting beyond the scope of the chosen specifications.

**2.2** Unless agreed otherwise Kapsch shall perform the services during business times customary with Kapsch (NAZ), exclusive of bank holidays and on days generally off at Kapsch.

**2.3** The customer shall and will not perform services on the contractual systems himself nor will he commission third parties with such.

**2.4** Insofar as the service of Kapsch includes the exchange or the repairs of spare parts, these parts do not necessarily have to be brand-new, but used or refurbished system components may also be used. In each case of exchange the ownership of the exchanged component shall be transferred to Kapsch unless explicitly agreed otherwise. This shall not apply only in the case that the principal provides the spare parts himself.

**2.5** Any and all services which exceed the services defined in the respective service level agreement (SLA), shall be performed upon separate assignment and shall be invoiced according to the currently valid charge rates of Kapsch.

The following services are not included in the scope (of performance):

- services performed upon request of the principal outside the times agreed for the respective services as well as those services which exceed the agreed quantity structures
- any and all works on the cable- and line network
- reductions, extensions of hardware or function, hard- and/or software upgrades as well as license extensions on the system or on system components
- SW updates or upgrades as well as HW or licenses
- wear parts and expendables (headsets, accumulators, batteries, paper, toner, lamps, panels, plasma screens, projection screens, projection films, floppy disks, etc.) as well as services in connection with their exchange
- any and all services for the purpose of troubleshooting and recovery of damages from elementary events (e.g. damages caused by lightning stroke or flooding, etc.)
- services in connection with malfunctions which are caused by systems or system components not included in the present agreement
- troubleshooting in case of non-compliance with ambient conditions (humidity, dust, harmful substances, etc.) as well as the operation of the system contrary to producer guidelines (system requirements). Equally service performances incurring due to improper handling of the components underlying the service (e.g. damages caused by the principal, devastation etc.).
- troubleshooting of disturbances outside normal working hours (NAZ) of Kapsch which do not impair the principal's business
- services for proving that the cause of malfunction in case of faults or malfunctions is not a system supervised by Kapsch (e.g. with integrated systems, systems with additionally installed software, etc.)
- services in connection with malfunctions due to improper handling, operating errors, technical or other interventions by the principal or third parties in the system itself or due to other circumstances which Kapsch is not responsible for

### 3. Rights of use to software products and documents

**3.1** Insofar as the principal is provided software products by Kapsch or the use of software products is provided within the scope of the service performance, the principal shall be granted the non-exclusive, non-transferable, non-sub-licensable right limited to the term of the agreement, to use the software products in an unmodified form within the business of the principal in Austria (license programs). Unless these conditions do not provide to the contrary, the Software Conditions of Kapsch shall anyhow apply as amended from time to time.

**3.2** In case of use of software products in a network, a (separate) license shall be required for each concurrent user. In case of use of software products on “Stand-Alone-PCs”, each PC shall require a license.

**3.3** With regard to software products of third parties provided to the principal by Kapsch, the respective license provisions of the producer of these software products shall apply with priority, as well as the General Software Conditions of Kapsch as amended from time to time. The customer acknowledges that these conditions may change at any time and that this is beyond the sphere of influence of Kapsch and he shall accept these producer-related changes.

**3.4** Unless separately agreed otherwise, no further going rights to software products shall be transferred to the principal. The principal’s rights according to sections 40(d), 40 (e) Austrian Copyright Act shall not be affected hereby.

**3.5** Any and all documents provided to the principal by Kapsch, particularly documentations on software products, may neither be reproduced nor distributed in any other way, against payment or without.

**3.6** Kapsch shall be entitled to inspect usage data of the principal as well as other information concerning the calculation of fees or dues. This shall include the right to examine compliance by the principal with conditions included in an agreement based on the present GTC-Service in connection with the use of software products at all sites and for all environments which the customer installs or uses license programs in. With such an examination Kapsch may employ an independent examiner for support, provided that Kapsch has concluded a written confidentiality agreement with that examiner. The customer shall undertake to cooperate in the examination to an appropriate extent and without consideration.

**3.7** The customer shall be obliged to establish and keep written records, versions of system tools and other system data and to make these available to Kapsch as well as to their examiners, in order to provide verifiable evidence vis-à-vis Kapsch that the installation and the use of the license programs by the principal are in accordance with the conditions of an agreement based on the present GTC-service. Kapsch shall and will inform the principal in writing if such an examination shows that the provisions of the respective agreement conditions are not being met. The rights and obligations of this paragraph shall remain in force for as long as the license programs are licensed to the principal and for two years thereafter.

**3.8** Kapsch shall support the principal in the defense of all claims stating that the contractually used software violates an intellectual property right or copyright valid under Austrian law. The customer shall inform Kapsch immediately in writing and perform a third-party notice according to section 21 Austrian Code of Civil Procedure in case of a law suit, if such claims are raised against him.

**3.9** If claims are raised based on the violation of intellectual property rights, which Kapsch is responsible for, Kapsch may at its own expense modify the software, exchange it or obtain a right of use. If that is not possible at appropriate cost, the customer shall upon request by Kapsch immediately return the original together with all copies of the software inclusive of provided documents. Herewith any and all claims of the principal regarding the violation of intellectual property rights and the copyright shall be finally settled excluding any further going obligation of Kapsch.

## 4. System inspection

**4.1** If the service is being performed for a system which at the time of contract conclusion has been operated for more than 12 months or which has not been delivered or put into operation by Kapsch, Kapsch shall be entitled to inspect it.

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**4.2** If this inspection in its result shows that on the side of the principal the requirements for the offered services are not given or only in part, the principal shall be offered alternative solutions. Additionally Kapsch shall be entitled to withdraw from the contract without a statement of reasons within four weeks from performance of the inspection.

**4.3** Costs and expenses resulting from the system inspection and a possible (also a failed) system restoration shall be borne by the principal according to the currently valid list prices and charge rates of the Kapsch customer service. The same shall apply in case of withdrawal by Kapsch according to this clause.

## **5. Term / Termination / Early termination**

**5.1** Any and all stipulations regarding term, termination resp. waiver of termination, early cancellation of the service agreement and fees primarily result from the respective underlying service tickets resp. in case of a lease- or service agreement relationship with Kapsch Financial Services GmbH from the respective lease- and service tickets. If the respective service tickets (lease- and service tickets) do not provide (specific) regulations, the following provisions shall anyhow apply.

**5.2** Subject to a separate stipulation in the service ticket (lease- and service ticket), which prevails all other contract documents, the service agreement shall come into force upon signature by both contracting parties, upon provision of the service by Kapsch at the latest and shall be concluded for an indefinite period of time. It may be terminated by either party giving 3 months written notice by registered letter, to the end of the minimum term agreed in the service ticket (lease- and service ticket) at the earliest however. The customer may only terminate services which are not considered a prerequisite for a service which itself is not terminated.

**5.3** If in the service agreements the service start is not separately agreed, the customer shall – after a possible system inspection and restoration if necessary, as well as upon payment of expenses in this context, be entitled to performance of the services according to the agreed scope of performance.

**5.4** Each contracting party shall be entitled to early terminate the service agreement for important reason by registered letter without previous notice. For Kapsch an important reason shall anyhow be given if the customer is in default with payment for more than 30 days, as well as if the other contracting party despite written reminder and threat of termination violates other material obligations of the agreement, or if the services of the other contracting party are being impaired or impeded for a period of more than six months due to force majeure.

**5.5** Furthermore Kapsch shall be entitled to early terminate the agreement for important reason if material parameters of service performance have changed and Kapsch therefore cannot be expected to continue the services from an economic point of view.

**5.6** In any case of total or partial early termination/cancellation and after any other ending of the agreement Kapsch shall be entitled to stop the performance of the services, irrespective of a possibly pendent lawsuit.

**5.7** In case of a termination for reasons which Kapsch is responsible for, the customer shall be obliged to pay for the services fully rendered by Kapsch until effectiveness of the termination, resp. in case of incomplete rendering to pay for the services insofar as these are useful for the principal.

## 6. Service fee / Maturity / Increase

**6.1** The conditions and fees payable by the principal shall result from the present service agreement (offer, service ticket, resp. lease- and service ticket) inclusive of its annexes.

**6.2** The service fee shall be due as of the agreed service start, otherwise as of the effective date of the agreement.

**6.3** Unless agreed otherwise, one-time fees shall be invoiced after performance of the service and recurring, constant fees (including charged base amounts) shall be invoiced quarterly in advance with the first quarter being invoiced pro-rata if appropriate. Services provided in variable quantities (e.g. storage) shall be settled and invoiced to the 15<sup>th</sup> of the following month.

**6.4** In case of an institution of insolvency proceedings on the assets of the principal, Kapsch shall be entitled to invoice the service fee for the duration of the insolvency proceedings as of the key date of the institution on a monthly basis in advance. The fee payable from the day of opening of the insolvency proceedings until the end of the current month shall be calculated on a pro-rata basis. The same shall apply in case of a deterioration of creditworthiness of the principal.

**6.5** The invoices issued by Kapsch shall be due plus Value Added Tax on the stated due date without any deduction and exempt from charges.

**6.6** Any and all claims from the service agreement shall be due for payment immediately. In case of default 1% interest per month shall be charged. The claiming of further damages shall not be affected thereby.

**6.7** With regard to partial statements the same payment conditions as those determined for the entire order shall apply.

**6.8** In case of only even partial default of payment Kapsch shall be entitled to completely or partially stop the services until payment receipt. The payment obligations of the principal shall remain upright unaltered.

**6.9** Without explicit written declaration of Kapsch the stopping of services shall not be deemed as a termination of the contractual relationship. Kapsch shall and will perform the services as soon as payment obligations or other contractual obligations are met by the principal as agreed.

**6.10** The value of the amount of all current fees shall be secured according to the Consumer Price Index 2010 (VPI 2010), announced by Statistik Austria, or according to the index substituting it. Current fees shall therefore increase or decrease to the same extent as the index changes. The adaptation of service fees shall take place once a year as per April 1 of each calendar year in the proportion in which the annual average of the VPI 2010 for the last calendar year has changed in relation to the penultimate calendar year before the adaptation. If Kapsch fails to perform an adaptation in case of an increase of the VPI 2010, this shall not constitute a waiver of the right to consider the respective increase with the adaptation of fees in the following years.

**6.11** The limited or impossible use of the system defined in the service agreement or parts of the system due to damage, theft, loss, legal, technical or economic impracticality, even in case of coincidence or force majeure, shall not entitle the principal to cancellation, termination or partial termination of the service agreement and the obligation to pay the agreed service fee shall remain upright unless the restricted or impossible usability has been caused by Kapsch. In this case the customer shall be entitled to extraordinary termination.

**6.12** Insofar as the contractual services are being performed in form of accounting- and/or consumption units, Kapsch (unless explicitly agreed otherwise) shall take measurements of the units used and to be charged according to its own procedure and provide the principal with records made by Kapsch on the units used or to be charged. Units used however shall be fully paid in advance (to the extent of units ordered). Consumption units shall, unless agreed to the contrary, be invoiced and fall due upon expiry of each calendar month. Payment periods shall be in accordance with the present clause (unless agreed otherwise).

**6.13** If Kapsch issues an estimation of expenses on a time and material basis or on the basis of use, such estimation shall be deemed for planning purposes only. Kapsch shall invoice according to the currently valid list prices and charge rates of the customer service on the basis of actual time and material expenses or according to the current or entitled use by the principal, taking into consideration an agreed minimum ordered quantity. The quantity approaches underlying the estimation are based on a valuation carried out to the best of knowledge of the scope of performance by virtue of the information provided by the principal.

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

**7.1** The performance of the contractual services depends on the timely fulfilment by the principal of the agreed cooperation obligations. The customer shall thus undertake to support all measures and to perform (preparatory) efforts which are necessary for the performance of the services by Kapsch, even if these are not explicitly included in the scope of performance. The cooperation obligations of the principal primarily result from the respective SLAs and shall prevail the present document in case of discrepancies. Insofar as these do not provide any stipulations, the following cooperation obligations shall anyhow apply.

**7.2** On his premises the customer shall be responsible for compliance with the conditions required by the respective producer for the operation of the hardware. The customer shall equally ensure room and building security, amongst others provide protection from water, fire and access by unauthorized people. On his premises the customer shall himself be responsible for specific safety precautions (e.g. safety cells).

**7.3** On the dates announced by Kapsch the customer shall at his own expense provide the information, data and documents required for the performance of the order and in the form required by Kapsch and he shall support Kapsch at request with problem analysis and troubleshooting, with the coordination of handling orders and with the matching of services. In case of maintenance services which are realized by the principal but which affect the services of Kapsch (e.g. with maintenance works on systems subject to a monitoring, etc.), the principal shall announce the start of such works on time (at least 5 working days in advance) as well as the actual start of such works and he shall immediately communicate the completion of such works.

**7.4** For the performance of the services the customer shall grant Kapsch the necessary access to the system as well as an access to remote control inclusive of any and all possibly necessary software user licenses and access authorizations. Moreover the provision of entrance/access possibilities (system location, access cards, removal of furniture, material and the like, etc.) and access possibilities (remote control, data transfer facilities, call numbers, user names, passwords, rights, lines etc.) as well as the immediate notice of any changes of such. Insofar as such an access by Kapsch is required for the performance of the service, any modification may be done only after clearance with Kapsch.

**7.5** The customer shall provide Kapsch free of charge with any and all existing communication tools, if this should be necessary for the performance of the contractually agreed services by Kapsch.

**7.6** It shall be within the scope of responsibilities of the principal to take appropriate measures for data security. The customer shall particularly perform regular data backup, especially before the performance of services by Kapsch. Kapsch shall not be liable for data loss.

**7.7** The customer shall undertake to treat the passwords and Log-Ins necessary for the use of the services of Kapsch confidentially.

**7.8** Immediate notice to Kapsch (service center see in product listing) of any and all disturbances including a most accurate disturbance description as well as provision of any and all information necessary for the provision of the service.

**7.9** Introduction of the Kapsch employees into the guidelines and rules of the principal (his company sector) relevant for the performance of the service (security, access, data protection, etc.) as well as immediate notice of modifications of such.

**7.10** Provision of evidence of the cause of disturbance in case of failures resp. dysfunctions of a system supervised by Kapsch, if systems have been integrated into the system environment of the principal or extended by third-party use, auxiliary equipment or by additionally installed software.

**7.11** Authorization of Kapsch to perform to the necessary extent measurements on the systems or in the networks of the principal.

**7.12** Provision free of charge of necessary software licenses with regard to applications of the principal, communication- or inspection instruments to the extent required by Kapsch for the provision of the services in material, territorial and temporal terms.

**7.13** Announcing of contact persons (per location resp. range of duty) of the principal for the purpose of compliance with the authorization procedures, clearings and the execution of service performances as well as immediate notice of modifications of such. The principal shall further ensure that the necessary contact persons are available for Kapsch, otherwise Kapsch may bring services to a stop until these persons are available.

**7.14** The customer shall meet all his cooperation duties on time in the way that Kapsch is not obstructed in the performance of its services. The customer shall ensure that Kapsch or third parties commissioned by Kapsch will be granted necessary access to the premises of the principal for the performance of the services. The customer shall be responsible for the fact that the employees of his connected undertakings participating in the fulfilment of the agreement or third parties commissioned by him do appropriately cooperate in the fulfilment of the agreement.

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

**7.16** If preparations to be made by the principal or requirements to be provided or authorizations to be obtained should not be mentioned, the principal shall irrespective thereof be responsible for their provision; unless Kapsch has engaged in writing in the provision of (single) preparatory efforts. A respective warning obligation is herewith amicably excluded. If such (efforts) are inappropriate or insufficient for installation, for putting into operation or the operation itself or if these - due to an action or omission by the principal - should become inoperative for the purpose of installation, putting into

operation or the operation itself, the principal shall reimburse Kapsch in full any and all costs incurred thereby.

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

**7.18** The allocations and contributions of the principal shall be free of charge.

**7.19** The customer shall without delay and at his own expense have any and all works performed which are not defined in the agreement or its annexes as services by Kapsch and which are necessary for the fulfilment of the contractually agreed services.

## **8. Process- and System Changes**

**8.1** Changes in the work procedures of the principal which may cause changes in the services to be performed by Kapsch for the principal, shall require previous clearance with Kapsch with respect to their technical and commercial consequences.

**8.2** Planned extensions, upgrades and other modifications of the contractual system shall be cleared with Kapsch beforehand and as early as possible with regard to their practicability. If Kapsch agrees to these modifications, the service fee shall at the same time be adapted to the modified extent.

## **9. Due Dates, Default**

**9.1** Binding due dates shall be explicitly agreed as such in writing.

**9.2** If Kapsch is responsible for a delay, the principal shall, after expiry of an appropriate grace period of at least four weeks, to be granted by the principal, be entitled to withdraw from the contract. From the reason of withdrawal the principal shall not be entitled to any damage claims.

**9.3** If the customer is responsible for a delay, Kapsch shall, after expiry of an appropriate grace period of at least four weeks, be entitled to withdraw from the contract. The customer shall reimburse Kapsch the expenses for works already performed as well as for goods already ordered for the principal and he shall reimburse lost profits. Date of performance shall be the day of notice of readiness for delivery.

**9.4** In all other cases or if a party does not exercise its right to withdrawal, the agreed due dates shall be deferred appropriately.

## **10. Warranty**

**10.1** The principal is aware of the fact that according to the state of the art it is impossible to exclude faults in services and products of the information technology in all conditions of use. Kapsch shall thus not warrant freedom from defects and this shall not be owed.

**10.2** Kapsch shall warrant for a period of six months. Warranty shall however be excluded if the deficiency is caused by provisions or contributions of the principal, his vicarious agents or other third parties attributable to him. If in the course of troubleshooting it should show that either no defect of a service of Kapsch is given or that the principal is responsible for it, the customer shall reimburse Kapsch the expenses incurred.



**10.3** Power failures, service works, disturbances and other events which Kapsch is not responsible for may lead to interruptions of services and shall not entitle the principal to a reduction of fees.

**10.4** The customer shall immediately inform Kapsch in writing pursuant to section 377 UGB (Austrian Commercial Code) or by E-Mail on defects occurred and he shall support Kapsch in all respects with their correction, particularly by providing all necessary information. Extra costs with the correction of defects caused by a late notice shall be borne by the customer. Kapsch shall start with the correction of defects without delay and shall properly and faultlessly perform the services within the agreed time, if nothing is agreed within an appropriate period of time, by at its choice either repeating the services concerned or by performing necessary rectification works. The customer shall not carry out troubleshooting or repair works himself nor shall he commission third parties with it.

**10.5** If Kapsch despite sustainable efforts and at least triple qualified written reminders fails to remove a defect within an appropriate period of time, each contracting party shall have the right to terminate the service agreement with immediate effect ex nunc.

**10.6** In case of deliveries of hard- and software the warranty conditions of the respective producer shall prevail and the present stipulations shall apply subsidiarily and correspondingly. Provided that the storage-, installation- and operation conditions imposed by Kapsch or the producer are being complied with, Kapsch shall (subsidiarily) warrant for a period of six months with the principal having to prove the presence of a defect at the time of delivery of the service. If in the scope of warranty system components are replaced, the original warranty of the entire system shall not be extended.

**10.7** The services of Kapsch shall be deemed accepted upon establishment of an acceptance protocol, upon use of the services by the principal at the latest however. Defects which do not substantially affect the use of the service of Kapsch, shall not impair acceptance and neither shall the principal be entitled to a retention of payment, not even in part.

## 11. Guarantee

**11.1** The assumption by Kapsch of a guarantee for certain properties (condition) shall for its validity require a written confirmation by Kapsch. Otherwise Kapsch will transfer a possible guarantee by the producer to the principal with the explicit indication that it is the guarantee declaration of a third party and that claims from such a guarantee may only be raised against the declaring party.

## 12. Liability

**12.1** The liability for slight negligence as well as for service interruption, lost profits, failed savings, interest losses, consequential damages and pecuniary losses shall be excluded with the exception of personal damages and material damages resp. claims resulting from product liability.

**12.2** If data security has not explicitly been agreed as service, the liability of Kapsch shall be limited to the actual expenses for restoration of the data, to a maximum however of EUR 15.000,- per damage case.

**12.3** On the whole the liability of Kapsch for any and all damages and expenses resulting from the agreement shall be limited to the basic contractual fee or to EUR 250.000,-, depending on which amount is lower. The contractual fee shall be calculated by the net amount of all allowances incurred until the first possibility of ordinary termination of the agreement.

**12.4** The limitations of liability as well as the exclusions of liability shall equally apply to the benefit of the governing bodies and auxiliary persons of Kapsch, in particular sub-contractors, suppliers, representatives, consultants and employees.

**12.5** In case of non-compliance with possible user conditions according to the user manual, documentation or official admission requirements, any liability, particularly damages, shall be excluded. The principal shall be responsible for proving compliance with possible user conditions.

**12.6** Damage claims shall become time-barred twelve months after the date when the customer became aware of the damage as well as the author of damage.

**12.7** The customer shall undertake to reimburse Kapsch any and all expenses connected to the pursuance of claims (anyhow dunning costs, collection expenses, lawyers' fees, dues) with regard to all contract violations such as in particular payment default.

## **13. Secrecy**

**13.1** The customer shall undertake to treat strictly confidential vis-à-vis third parties any and all technical and business documents (e.g. data carriers, drawings, documents, test results, samples) as well as any kind of technical information, knowledge, experiences in connection with this service agreement as well as the service tickets.

**13.2** Kapsch shall observe section 15 DSGVO 2000 (Austrian Data Protection Act) and take the necessary security measures in terms of section 14 DSGVO 2000. Insofar as the customer transfers data to Kapsch, he shall be solely responsible for the fact that any and all necessary approvals of third parties for the data transfer to Kapsch are given. The customer shall indemnify and hold Kapsch harmless with regard to any and all claims in this respect.

**13.3** Kapsch shall be entitled to exploit content and conclusion of the present agreement in reference lists.

## **14. Export limitations**

**14.1** Performance of the contract (particularly compliance with the agreed service levels) by Kapsch shall be subject to the fact that no obstacles whatsoever due to national and/or international laws, particularly export control provisions, are opposed to it. With the use of the services the customer shall equally be responsible for compliance with the Austrian and other applicable export laws, in particular with the Austrian and the US export rules. Any transfer of contractual objects, documents or other material, in particular any re-export may be subject to the obligation to gain a permit according to the export rules of the USA, the European Union or possible other states. In such case the customer shall undertake to obtain the appropriate permits from the respective authorities before a transfer takes place. In each case of a repeated transfer the same obligation must be contractually imposed on the respective transferee, resp. the person entitled to dispose of.

## **15. Changes of GTC, Specifications and Prices**

**15.1** Kapsch shall be entitled to change the General Terms and Conditions, the individual specifications or the prices with an appropriate period of notice, provided that the change is reasonable, taking into consideration the interests of the principal.

**15.2** If changes are made to the disadvantage of the principal, the principal shall be entitled to an extraordinary termination right at the time of effectiveness of the change.

**15.3** Sub-contractors, transfer of rights and obligations

**15.4** Kapsch shall be entitled to entrust sub-contractors with the performance of duties.

**15.5** Kapsch shall be entitled to fully transfer the rights and obligations from this contract to connected undertakings of the Kapsch Group. In such case Kapsch shall inform the principal in writing. The customer shall not be entitled to extraordinary termination if the assuming company enters into all contractual rights and obligations. The transfer of rights and obligations by the principal without the consent of Kapsch shall be excluded.

**15.6** In case of a business transition according to section 38 UGB (Austrian Commercial Code) the Seller and the Acquirer shall undertake to immediately inform Kapsch in writing, otherwise they shall be jointly liable for any and all fee- and damage claims.

## **16. Final provisions**

**16.1** A set-off of claims of the principal against claims of Kapsch shall be excluded.

**16.2** The customer shall waive the defenses of avoidance of the service agreement due to error or reduction of more than half the value (laesio enormis).

**16.3** Austrian Law shall apply exclusively. Place of performance shall be Vienna. Exclusive place of venue shall be Vienna.

**16.4** The customer shall in each case announce to Kapsch in writing and without delay any changes of his name or company name, his address, legal form, company register number, payment office etc.. If such a change in the person of the principal leads to a probable deterioration of enforcement of claims or a worsened creditworthiness of the principal (e.g. transfer of the place of business abroad, change in the legal form), Kapsch shall be entitled to change to prepayment or to demand an appropriate security.

**16.5** If single provisions of the service agreement inclusive of its annexes should wholly or in part be ineffective, the other provisions shall remain in force. An effective provision shall be deemed agreed in place of the ineffective provision which meets the economic purpose of the ineffective provision most closely. The same shall apply in case of a gap.