

# Terms and Conditions for the Use of Advertising Channels

## I. Definitions

1. **"TMCZ"** means T-Mobile Czech Republic a.s., Tomičkova 2144/1, 149 00 Praha 4, Company Registration No. 64949681, Tax Registration No. CZ64949681, entered in the Commercial Register administered by the Municipal Court in Prague, Section B, File No. 3787.
2. **"Partner"** means the party ordering a particular Advertising Channel specified in the Order.
3. **"Order"** means a proposal to conclude the Contract, which the Partner delivers to TMCZ.
4. **"Contract"** means the contract wherein the Parties agreed on the specific conditions for the distribution of Advertising in the requested scope and format. The procedure for accepting an Order (concluding the Contract) is defined in Article II hereof.
5. **"Price of Advertising"** means the price determined in the Contract. Unless another price is determined in the Contract, it is assumed that the Price of Advertising as determined in the Advertising Price List shall be applied.
6. **"Advertising Price List"** means an overview of basic prices for which TMCZ offers individual Advertising Channels, which is published at [www.t-mobile.cz](http://www.t-mobile.cz). TMCZ may modify the Advertising Price List at its discretion; the new Advertising Price List comes into force and effect on the date of its publication on the aforementioned website. For the avoidance of doubt it is hereby stipulated that any previously ordered Advertising shall be provided at agreed prices (the Advertising Price List shall not be therefore applied retroactively).
7. **"Advertising Channels"** means individual spaces which TMCZ offers for placing Advertising, which are detailed in the Advertising Price List or agreed in the Contract between TMCZ and the Partner (particularly banner spaces on TMCZ's wap sites and websites, spaces in distributed Flash SMS, SMS and MMS, spaces provided in connection with tax documents issued by TMCZ, etc.).
8. **"Advertising Space"** means the total capacity intended for the distribution of Advertising via Advertising Channels, which is offered by TMCZ.
9. **"Advertising"** means any promotion of products or services made in perceptible (particularly graphic, audio or audio-visual) electronic form, intended by the Partner for distribution via a specific Advertising Channel.
10. **"Advertiser"** means an individual or a legal entity that benefits from the distribution of Advertising, in particular Advertising promotes its activity, brand or product or services provided by such individual or legal entity.
11. **"Customer"** means anybody who is interested in entering or has entered into a contract for the provision of electronic communications services with TMCZ or is a user of such services or is the intended recipient of Advertising.
12. **"Landing Pages"** means the pages to which the Advertising refers (i.e. particularly the Advertiser's pages which the user of Advertising accesses after clicking on the advertising banner or page included in the Advertising).

## II. Conclusion of the Contract

1. Prior to sending an Order, the Partner is obliged to pre-negotiate the conditions for providing the performance with TMCZ's contact person specified in Article VIII hereof. Subsequently, the Partner shall fill in the Order form, which can be downloaded from [www.t-mobile.cz](http://www.t-mobile.cz), sign it and send it by fax or in scanned form by e mail to the respective TMCZ's contact person.
2. No later than three (3) business days of receipt of the Order, TMCZ shall inform the Partner whether or not the requested Advertising can be provided in accordance with the Order. TMCZ's statement shall be sent to the Partner.
3. If the Order is accepted by TMCZ, a Contract is concluded and Advertising Space is thereby booked for the Partner to the extent specified in the Order. The contractual relationship established by the Contract shall be governed by the Order, these Terms and Conditions and the legislation in force; these documents shall have priority in the order specified above. An Order or Contract may be cancelled upon mutual agreement of the Parties. The Parties have agreed that the Partner must notify of its intention to cancel an Order (or an already concluded Contract) no later than ten (10) business days prior to commencement of the distribution of the Advertising; such notice shall be sent to the address of TMCZ's contact persons. If the Contract is not cancelled, the Partner is obliged to ensure the provision of the Advertising; if this is not feasible, and unless the Parties agree otherwise, it is obliged to fulfil its obligations under the respective Contract (particularly to pay the price) even though the Advertising is not distributed (the performance provided in such a case is deemed to be a flat fee paid by the Partner for booking the Advertising Channel ordered).
4. TMCZ may refuse a Partner's Order (and therefore not to conclude a Contract) even without stating the reason, particularly in the event that the Order does not contain the information required by TMCZ or in the case of a lack of available capacity in the Advertising Space.
5. If an Order is refused, TMCZ shall contact the Partner without undue delay and discuss the necessary changes to the Order with the Partner; if possible, TMCZ will offer alternative Advertising Space on the corresponding dates or in the corresponding scope. Depending on the outcome of the discussions between TMCZ and the Partner, a new (amended) Order will be issued and confirmed by TMCZ in accordance with Subsection 2 of this Article hereof or, if the Parties fail to reach an agreement, the contractual relationship will not come into existence.
6. For the purposes of Advertising Channels through which individual Customers are contacted directly (e.g. SMS and MMS campaigns), the Parties have agreed that even after the conclusion of the Contract, TMCZ may deviate from the agreed number of contacted Customers (up to -10% of the originally agreed number of Customers); in such a case, TMCZ's remuneration shall always be calculated only based on the number of Customers to which an Advertising Message was actually sent.
7. For the avoidance of doubt it is hereby stipulated that should a Contract not be concluded in the manner described above, TMCZ is not bound by an Order it has received..

### III. Basic rights and obligations of the Parties

1. In the absence of an express provision to the contrary contained in an Order, the Partner:

- 1.1. Expressly confirms that it is authorised to order Advertising and its distribution via Advertising Channels in its name, on its account and responsibility;
- 1.2. Undertakes to submit to TMCZ advertising materials (formats) for the distribution of Advertising no later than eleven (11) business days prior to the first day on which Advertising is to be distributed under the respective Contract; such materials shall be sent by e-mail to the address of TMCZ's contact persons. The advertising materials must meet the conditions (particularly technical and legal) stipulated in the Contract (including these Terms and Conditions); failing which they may be refused by TMCZ. The materials (formats) for the distribution of Advertising submitted by the Partner to TMCZ must in particular comply with the specification of the space to which they are to be placed at the Partner's request (e.g. in terms of size, format, etc.). TMCZ is not obliged to return the advertising materials to the Partner after the termination of the campaign, or archive such materials.
- 1.3. Undertakes to pay to TMCZ the remuneration agreed for the provision of the Advertising Space;
- 1.4. Undertakes to settle any and all rights pertaining to the Advertising content in such a way as to ensure that the Advertising content is in accordance with the Order, these Terms and Conditions and the legislation in force.
- 1.5. Acknowledges and agrees that the Advertising Channels are limited by dimensions, file size and, some of them, also by the nature of Advertising which can be used in the particular Advertising Channel (e.g. audiovisual advertising messages cannot be placed into the dedicated parts of the Advertising Channels), and undertakes to respect these limitations. The specifications of advertising messages that can be placed into the individual Dedicated Parts of the Advertising Channels are indicated, in particular, in the Advertising Price List.
- 1.6. May lodge claims with respect to the defects of performances provided by TMCZ without undue delay upon becoming aware of them, though no later than within fifteen (15) days after the termination of the Advertising distribution agreed under the respective Contract; such claims shall be sent to TMCZ's contact persons specified Article VII of this Contract. If the aforesaid time limit lapses to no effect, the Advertising shall be deemed to have been duly distributed by TMCZ. In the case of a justified claim lodged by the Partner, the Parties have agreed that the preferred indemnification for the performance claimed defective shall be a discount on the performance or distribution of Advertising on different dates or in an increased scope. If any of the performances as per the preceding sentence is feasible, the Parties shall make their best efforts to agree on a performance as per the preceding sentence.

2. In the absence of an express provision to the contrary contained in an Order, TMCZ:

- 2.1. Expressly confirms that it built and operates a public electronic communications network and provides electronic communications services and that the network is capable of distributing Advertising ordered by the Partner via the Advertising Channels provided that the conditions set out in the Order, these Terms and Conditions and the legislation in force are complied with;

- 2.2. Undertakes to exert any reasonable best efforts in administering its Advertising Channels so as to make them as attractive as possible for other Customers with the aim of gradually increasing the number of users of the respective Advertising Channel;
- 2.3. Undertakes to provide to the Partner, subject to the terms and conditions stipulated in the Contract, Advertising Space within the Advertising Channels to the extent agreed in the Contract and to arrange for the distribution of the agreed Advertising provided that the Partner fulfils all of its obligations stipulated in this Contract (including these Terms and Conditions);
- 2.4. Expressly confirms that it is authorised to distribute Advertising to Customers via the Advertising Channels and has obtained the respective consents from Customers for the purposes of the distribution of Advertising, if such consents are necessary to this effect. For the avoidance of doubt it is hereby stipulated that the preceding sentence does not concern any Advertising content (distributed advertising message and its harmlessness), as the responsibility for the Advertising content lies with the Partner;
- 2.5. Undertakes to provide to the Partner, within seven (7) business days after the end of the calendar month in which the Advertising was distributed under the Contract, reports specifying the number of times the Advertising placed on TMCZ's wap site or website in the form of banners was displayed to Customers (the "Report").
- 2.6. May refuse to distribute the Advertising or terminate the distribution of the Advertising at any time in the course of the distribution thereof for serious reasons, of which TMCZ is obliged to notify the Partner without undue delay. A serious reason means, in particular, the contradiction of the Advertising content with the rules defined in Article IV of these Terms and Conditions (or TMCZ's serious justified suspicion thereof) or the existence of any outstanding amount past its due date, which the Partner failed to pay to TMCZ, or the delivery of Advertising materials which are legally or technically incapable of distribution via the agreed Advertising Channel. Such Advertising shall be deemed non-provided or terminated for reasons on the part of the Partner. Following the removal of the defects of the Advertising or delivery of proper advertising materials or due settlement of the receivable, the Parties shall agree on the continuation in the distribution of Advertising, if this is still possible and practical. The provision of Article II (3), which is applied to the cancellation of Advertising, shall be applied for the purposes of termination of the distribution of Advertising analogously (i.e. the Partner shall always pay the price for the Advertising Space ordered if the distribution was terminated less than ten (10) business days prior to the date when the Advertising was to be distributed).
- 2.7. May terminate the operation of any Advertising Channel without specifying the reason. For the avoidance of doubt it is assumed that unless the performance is prevented due to contradiction with a legal regulation in force (e.g. lack of consents from Customers), the cancellation of the respective Advertising Channel shall not affect a performance that has been ordered (a performance for which a Contract was duly concluded prior to the cancellation of the Advertising Channel);
- 2.8. May, in the event that no Advertising is distributed in the Advertising Space via Advertising Channels for any reason on the part of the Partner at variance with a concluded Contract, use the Advertising Space for its own advertising; in such a case, the Partner has no right to any discount, substitution or compensation of the unused Advertising Space



2. The Partner shall pay the remuneration to TMCZ based on a tax document that shall be issued and delivered by TMCZ to the Partner's address stated in the Order. TMCZ undertakes to issue the tax document no later than within ten (10) days after the distribution of the respective Advertising is terminated, and, if the Advertising is distributed for a period longer than one (1) calendar month, always no later than ten (10) days following the end of the calendar month during which the Advertising was distributed (to the extent of the performance provided in the respective calendar month). The tax document shall contain the elements required by the legislation in force; tax documents shall be payable upon agreement between the Parties within thirty (30) calendar days of the delivery date of the respective tax document to the Partner. The tax document shall be delivered to the Partner no later than by the fifteenth (15th) day of the month following the month during the campaign was executed.

#### VI. Late payment interest and sanctions

1. If either Party delays the payment of any amount due (monetary performance) under the Contract, the other Party may claim late payment interest in the amount defined in the legislation in force.
2. If the Partner breaches any of its obligations stipulated in Article IV (2) to (3) of the Contract, it undertakes to pay to TMCZ a contractual penalty of CZK 50,000 for each such breach of obligations.
3. If either Party breaches the confidentiality of information stipulated in Article VII of this Contract, it undertakes to pay to the other Party a contractual penalty of CZK 100,000 for each such breach of obligations.
4. The Parties have agreed that any contractual penalty under the Contract shall be payable within fifteen (15) days of delivery of a justifiably issued statement of contractual penalty to the other Party. Negotiation or payment of any contractual penalty under this Contract shall be without prejudice to the right to claim indemnification for damage.

#### VII. Confidentiality of information

1. The Parties undertake to maintain confidentiality of the information concerning the other Party which they learn in connection with the performance of the subject-matter of the Contract if such information can be used commercially and is not publicly known or available. This obligation shall apply similarly to other information which is expressly designated by the other Party as confidential. All information defined above shall be hereinafter referred to as "Confidential Information".
2. Each of the Parties undertakes to prevent any leakage of Confidential Information obtained from the other Party and to protect the secrecy of Confidential Information obtained from the other Party at least to the same extent as it protects its own business secret; however, in any case in a manner customary for the protection of business secret.
3. Each of the Parties undertakes not to use Confidential Information obtained from the other Party for a purpose other than for the performance of this Contract.
4. The Parties have agreed that, under this Contract, either of them may disclose Confidential Information of the other Party to its legal or tax and accounting advisors ("Advisor"). If an Advisor breaches the obligation to maintain confidentiality, the Party disclosing Confidential Information to such Advisor shall bear responsibility for such breach as if breaching the obligation itself. TMCZ may also disclose Confidential Information of the other Party to its related parties and companies that are members of the Deutsche Telekom AG group; such company shall be deemed any entity in which Deutsche Telekom AG directly or indirectly controls at least 26% of voting rights.

5. The Parties undertake to observe the obligation of confidentiality as per this article of the Contract not only throughout the validity and effective period of the Contract, but also after the termination thereof, until such time as Confidential Information becomes publicly known and available, without this article of the Contract being breached.
6. This Contract does not envisage any provision of personal data to the Partner. However, processing of personal data, if any, shall always be performed solely in accordance with the legislation in force

#### VIII. Contact persons

1. The Parties have agreed that in the absence of a provision to the contrary contained in the Contract, any notices, information, instructions, communications, complaints, requests as well as other documents ("notices") for the purposes of this Contract shall be submitted to the following contact places:  
TMCZ: Petr Slavík, e-mail: Pet.slavik@t-mobile.cz, phone: 603414143  
Partner: see the contact details stated in the Order
2. Either Party may at any time change the information about its contact place and/or notify the other Party of additional contact places without the need of signing an amendment to this Contract. In such a case, however, the respective Party is obliged to send to the other Party's contact place a notice of the change or supplementation; if possible, such a notice must be delivered to the other Party no later than five (5) calendar days before the change or supplementation is applied by the notifying Party.

#### IX. Final provisions

1. The Parties may not assign or transfer the rights and obligations arising under this Contract to a third party without a written consent of the other Party.
2. The rights and obligations arising under or in connection with this Contract shall be governed in particular by Act No. 513/1991 Coll., the Commercial Code.
3. Either Party may terminate the Contract, even without specifying the reason, subject to a notice period of one (1) month, which commences on the first day following the delivery of the notice of termination to the other Party.
4. Any disputes which the Parties fail to settle amicably shall be submitted for final resolution to the court of the Czech Republic having subject-matter jurisdiction.
5. TMCZ may modify these Terms and Conditions at any time; the new Terms and Conditions shall take effect, unless they explicitly imply otherwise, on the date of their publication on the website at www.t-mobile.cz and shall replace the original Terms and Conditions in full.
6. Schedule 1 – Specification of Excluded Entities, Products and Services etc. forms an integral part of the Terms and Conditions. In the case of any discrepancies between the text of this Contract and the text of the schedule, the text of this Contract shall prevail

Nabytí platnosti a účinnosti: 15. 2. 2010  
T-Mobile Czech Republic a.s.

Schedule 1  
Specification of Excluded Entities, Products and Services etc.

1. Operators of electronic communications networks used for the provision of mobile telephone services, fixed telephone services, data transmissions (including, but not limited to, Vodafone Czech Republic a.s., Telefónica O2 Czech Republic, a.s., MobilKom, a.s., GTS NOVERA a.s., TELE2 s.r.o., etc.), providers of the aforementioned electronic communications services (including, but not limited to, telephone



services, SMS services, MMS services, mobile data access, etc.) and entities provably offering and providing similar services directly competing with TMCZ's services.

1. Operators of electronic communications networks used for internet access and/or data transmissions and providers of the aforementioned electronic communications services and entities provably offering and providing similar services directly competing with TMCZ's services.
1. Providers of content download services, such as music in all formats (e.g., MP3, AAC, WMA, etc.), ring tones, pictures, videos, intended for the use in mobile telephones and personal computers, and entities provably offering and providing similar services directly competing with TMCZ's services.
1. Operators of internet and similar portals offering music content (e.g., [www.i-legalne.cz](http://www.i-legalne.cz)) or other content intended for mobile telephones, and entities provably offering and providing similar services directly competing with TMCZ's services.