

Translation from German

# **General Terms and Conditions for M2M Mobile Communication Services**

("GTC M2M")

of **T-Mobile Austria GmbH**

Rennweg 97-99

1030 Vienna

- hereinafter referred to as "T-Mobile" -

Applicable to all newly concluded contracts and to  
contracts renewed on or after 6 May 2019

## Introduction

**Machine-to-Machine Communication or M2M** means automatic communication between the most different technical terminals (e.g. vehicles, containers, alarm systems or electricity meters) or with a central coordination centre by use of the mobile communication network. By interconnecting these "machines" via the mobile communication network specific modules and also entire systems can communicate with each other all around the world, and may also be monitored, controlled and maintained.

In this context T-Mobile offers connectivity which the customer can use in his own technical solutions or, in cooperation with T-Mobile's partners, also special hardware, software and service solutions.

## Part I: The contract - the basis of a good relationship

### 1 How is the relationship between T-Mobile and the customer regulated?

#### - Legal bases

- 1.1 The customer will conclude a framework contract on M2M mobile communication services with T-Mobile ("Framework Contract"). On the basis of the Framework Contract the customer will conclude specific M2M mobile communication contracts (also referred to as "M2M Connections") on the terms and conditions of the Framework Contract. The Framework Contract consists of the following parts:
  - a. the customer's service request,
  - b. the special terms of use (only for additional services),
  - c. these GTC M2M,
  - d. M2M Service Portal specifications.
- 1.2 The terms agreed in the customer's service request constitute the basis (the framework) for the contractual relationship. The terms and conditions agreed in the customer's service request shall apply to all connections (M2M Connections) which are activated during the term of the Framework Contract on the basis of the same.
- 1.3 M2M contracts shall be concluded exclusively with customers who are entrepreneurs as defined in Section 1 of the Austrian Consumer Protection Act [*Konsumentenschutzgesetz/KSchG*].
- 1.4 If the customer has general terms and conditions of his own or the like, application of the same shall expressly be excluded.
- 1.5 Individual agreements must be made in writing (signature). Informal statements of T-Mobile's employees (including by email) shall be ineffective.

### 2 Conclusion of contract: How is the contractual relationship between T-Mobile and the customer established?

- 2.1 The Framework Contract will commence as soon as the customer places his order by means of a service request (offer) and T-Mobile provides services to the customer (acceptance), e.g. by activating the M2M Service Portal or the first SIM card.

- 2.2 The customer shall be bound to his offer for three (3) days after the purchase order was placed.
- 2.3 At the time of registration the customer must provide the following:
 

proof of his identity (driving licence, passport or identity card),  
proof of a SEPA bank account or credit card if the customer grants T-Mobile a direct debit authorisation for payments,  
proof of his entrepreneurship (by means of an excerpt from the Business Register, trade licence, etc.),  
a special power of attorney if a third party (e.g. an employee) is to conclude the contract on the customer's behalf.
- 2.4 T-Mobile may reject the customer's purchase order by notifying him
  - a. if there are payment arrears under a previous or current contractual relationship with T-Mobile,
  - b. if the customer provides incorrect or incomplete data regarding his person or his creditworthiness,
  - c. in the case of a well-founded suspicion of misuse of T-Mobile services,
  - d. for technical or financial reasons justifying the rejection of the order, or
  - e. in the case of well-founded doubts about the customer's creditworthiness.
- 2.5 Before accepting the customer's offer T-Mobile will check his creditworthiness through accepted and legally authorised undertakings, which are listed in Clause 14.4.
- 2.6 If T-Mobile has doubts about the customer's creditworthiness (e.g. because of a credit report), T-Mobile may make conclusion or performance of the contract dependent on the proper establishment or execution:
  - a. of a direct debit order,
  - b. payment by credit card,
  - c. appropriate security, or
  - d. an advance payment.
- 2.7 If T-Mobile accepts the customer's offer, T-Mobile will activate access to the M2M Service Portal for the customer or the first M2M Connection not later than three business days after T-Mobile has received all records/documents that are necessary for proper registration. In the case of products that are agreed individually activation may take longer in specific cases.
- 2.8 If use of the M2M Service Portal is included in the customer's Framework Contract, contracts on specific M2M Connections of the customer shall exclusively be concluded electronically via the M2M Service Portal. The customer will receive access data (user name and password) for use of the M2M Service Portal. The holder of such access data may change settings, order additional services or cancel services in the customer's name.
- 3 **Notifications relevant to the contract**
  - 3.1 The customer shall notify T-Mobile in writing as early as possible if and when his master data (as defined in Section 92(3) *TKG* 2003), his

contact data or credit data has changed:

- a. his name/the name of his business
- b. his academic degree,
- c. his address,
- d. his contact details (email address),
- e. his bank account or credit card details,
- f. his credit standing.

- 3.2 If the customer fails to notify T-Mobile of a change of (business) address, he shall bear the related risk. The same shall apply if the email address the customer advised to T-Mobile for the purpose of contractual communication changes. As long as the customer has not informed T-Mobile, T-Mobile may continue to send all notifications, declarations of intention, bills, invoices, etc. to the address or email address most recently advised by the customer to T-Mobile.

#### 4 Term of contract; Termination by notice

- 4.1 Unless agreed otherwise by and between T-Mobile and the customer in the service request, the contract shall be concluded for an indefinite period of time.
- 4.2 T-Mobile may establish minimum terms of contract for the Framework Contract or specific M2M Connections: they shall depend on the service request.
- 4.3 The customer and T-Mobile may terminate the Framework Contract and the specific M2M Connections by giving three (3) months' notice as of the last day of any month. The date of receipt of such notice of termination shall be decisive for calculating the date at which the contract will terminate.
- 4.4 The customer may terminate contracts with a minimum term by notice not earlier than with effect as of the date at which the minimum term of contract ends.
- 4.5 Notice of termination of the Framework Contract must be given in writing. If the customer gives notice of termination of a contract, the notice must be duly signed on behalf of his company.
- 4.6 Specific M2M Connections (SIM cards) shall constitute separate contracts. The Framework Contract and the connections may have different minimum terms of contract. Termination of the Framework Contract shall not affect the terms of the M2M mobile communication contracts which have been concluded separately. However, M2M mobile communication contracts concluded under the Framework Contract shall end automatically not later than 60 months after termination of the Framework Contract with no notice of termination being required.
- 4.7 If the contractual relationship is terminated prior to the end of the agreed minimum term of contract for reasons for which the customer is responsible, then T-Mobile shall be entitled to charge all basic charges outstanding until the agreed minimum term of contract expires.

#### 5 Termination for cause

- 5.1 The customer and T-Mobile shall be entitled to terminate the contract for cause by giving two (2) weeks' notice as of the end of any calendar month if

- a. a public authority in or outside of Austria or any other international authority has declared by means of a written decision, which is either non-appealable or immediately enforceable and the immediate enforceability of which could not even be removed in proceedings for provisional relief, that continuation of the cooperation of the parties under the contract is not admissible or is admissible only in part or could only be continued at disproportionately high costs;
- b. a public authority as described in paragraph (a) imposes requirements for the cooperation and the parties are unable in negotiations to reach a consensus on an amendment to the contract that would serve the interests of both parties within one (1) month of notification of the requirements.

- 5.2 The customer shall be entitled to terminate the Framework Contract for cause by giving two (2) weeks' notice as of the end of any calendar month if

- a. T-Mobile no longer possesses rights to use frequencies that are necessary for the operation of the mobile communication network and which are used for rendering the services under this contract,
- b. T-Mobile violates material obligations under this contract and, despite a written warning from the customer, fails to remedy the violation within four (4) weeks of receipt of the warning,
- c. a modification of or change to T-Mobile's mobile communication network leads to a situation where the services being the subject matter of the contract can no longer be rendered at all or not in full or where a failure of the mobile communication network operation lasts for more than one (1) week.

- 5.3 T-Mobile shall be entitled to terminate the Framework Contract for cause if

- a. the customer violates material contractual obligations,
- b. the customer fails to fulfil his payment obligation despite a reminder and a two-week grace period including a warning that his connection will be deactivated,
- c. the customer misuses the services or uses them to harass or harm others,
- d. his company or partnership is liquidated.

- 5.4 The above-stated grounds for termination do not exclude termination for cause as defined by general civil-law principles on termination without notice for cause.

#### 6 Consequences of termination of the Framework Contract

- 6.1 The customer will no longer be allowed to order additional M2M SIM cards as of effectiveness of termination of the Framework Contract. However, the customer shall be allowed to continue to market the M2M SIM cards he has purchased to his customers until his stock of M2M SIM cards is used up. However, it shall be deemed agreed that the mobile communication services provided via the M2M SIM cards will be terminated automatically not later than sixty (60) months after the termination has become effective. The customer shall take this into account accordingly when stipulating the term of contracts to be concluded with his end customers.

- 6.2 In the case of termination of the Framework Contract by T-Mobile for cause, any and all related M2M mobile communication contracts shall also end upon effectiveness of such termination.

## Part II: T-Mobile's services - what T-Mobile does for the customer

### 7 Quality of services:

- 7.1 For details on the quality of T-Mobile's services the customer is asked to refer to his service request. There he can also find information about restrictions, if any, of access to or use of services. Customers can find information on the current network coverage at [magentabusiness.at/netz](http://magentabusiness.at/netz). Please bear in mind that the figures are calculated averages (see immediately below).
- 7.2 Moreover, the quality of T-Mobile's services may depend on:
- the type of terminal equipment,
  - the type of network (e.g. UMTS, GSM),
  - the network load,
  - the selected price plan, or
  - the selected option, and
  - the conditions of the radio field (mountains, walls, trees, snowfall, etc.).
- 7.3 T-Mobile is not in a position to guarantee certain quality parameters. However, within the technical possibilities T-Mobile warrants that it will use all efforts to provide the customer with the best possible availability and reception quality. Once the regulatory authority has fixed the parameters for service quality on the basis of Section 17 TKG 2003, T-Mobile will, of course, provide its services at least in the prescribed quality.
- 7.4 Unforeseeable or extraordinary circumstances (e.g. force majeure) or necessary or expedient technical measures (e.g. maintenance, work to improve the network, to avoid network faults or due to official requirements) may lead to temporary faults and disruptions of T-Mobile's services. In any case T-Mobile shall endeavour to remedy such faults or disruptions without culpable delay within a reasonable period of time.
- 7.5 T-Mobile assumes no responsibility for technical compatibility between M2M applications of third parties and the M2M mobile communication services of T-Mobile. In addition, T-Mobile assumes no warranty for compatibility with terminal equipment which was not tested and approved by T-Mobile.
- 7.6 Outside of Austria T-Mobile will provide communication services with the help of roaming partners. Network availability and network quality depend on the relevant roaming partner and are beyond T-Mobile's control. The list of current roaming partners can be retrieved at [magentabusiness.at/roaming](http://magentabusiness.at/roaming).
- 7.7 National Roaming (NR): T-Mobile constantly works on improving the quality of its voice and data connections and on further condensing mobile communication supply. T-Mobile may do this also by allowing the customer to use third-party mobile communication networks in areas in

which its networks (2G and 3G) guarantee no optimum mobile communication supply (National Roaming / NR). The customer will then have the advantage of an overall improved mobile communications supply. Third-party mobile communication networks may, however, technically differ from T-Mobile's mobile communication networks. Where T-Mobile has agreed on special technical services or features with the customer, T-Mobile can only warrant functioning of the same within its own network, and not in the case of NR. The customer shall not be entitled to any right from a modification/termination of an NR agreement by T-Mobile.

- 7.8 For the purpose of assuring the quality of voice and data services of T-Mobile and for network planning T-Mobile will carry out regular measurements of data traffic in its own network. T-Mobile will use the information about the status and the load of network elements and their connections gained in this way for capacity planning, to increase reliability and to increase the stability and quality of its network and the services based thereon. T-Mobile uses both active (mobile & stationary) and passive monitoring systems, which basically provide the quality parameters of signalling and data traffic necessary for analysis. In passive measurement procedures the figures provided by the systems themselves are used for analysis.
- 7.9 In active measurement procedures customer behaviour is simulated by a measuring device or an automated terminal device (mobile phone, data stick) on a stationary or mobile basis in the network. The figures thus gained from the systems show:
- the rate of connections not terminated by the customer (call interruption rate),
  - the rate of successfully established connections (success rate),
  - the data throughput rate (maximum achievable bandwidths),
  - the round trip time (time during which data flows from the customer through the network and back to the customer),
  - alerts and/or system diagnoses (failure of individual system units, fire alerts, burglary alerts).
- 7.10 The procedures themselves do not affect the quality of the services but constitute the basis for error identification and optimisation work up to a complete exchange of defective systems. No content data is analysed thereby. The systems of T-Mobile are monitored around the clock and on every day of the year (24/7). T-Mobile will be pleased to inform the customer about improvements of the network performance or services performance via the service line upon request; customers can find general information on the quality of T-Mobile's services also on T-Mobile's website at [magentabusiness.at/netz](http://magentabusiness.at/netz).

### 8 M2M Service Portal

In the service request T-Mobile may agree with the customer on the right to use T-Mobile's M2M Service Portal. For more detailed provisions in this regard please see Part IV.

### 9 Emergency services

- 9.1 Calls to emergency services, including the European emergency number 112, are free of charge.
- 9.2 When the customer makes an emergency call, emergency organisations will be able to identify the position from where the customer made the call and what phone number he used.

- 9.3 In the case of price plans with no integrated voice service and in the case of deactivation of the voice service in the M2M Service Portal no connections to emergency services can be established.

## 10 Special rules for M2M

- 10.1 The present M2M mobile communication services may only be used as part of an M2M system solution but not for general, open, personal (private or business) communication services, such as text messages or voice telephony to any phone numbers or open internet access, not even via a switching solution. Transmission of circuit switched data via the voice channel, offers of services via the VoIP protocol (e.g. VoIP voice telephony) and personal messaging shall be no subject matter of the contract. Use of a mobile mailbox or value-added services shall be excluded as well.
- 10.2 Any violation of this provision shall be deemed misuse of the provided M2M SIM cards and shall entitle T-Mobile to block them promptly and to immediately terminate the contract for cause.
- 10.3 Support of the customer by T-Mobile in compliance with the customer's regulatory obligations shall be no subject matter of this contract. This shall include but not be limited to the portability of phone numbers in the case of M2M services, compliance with Regulation (EU) 531/2012 (Roaming Regulation) and with the Austrian Regulation on the Limitation of Costs [*Kostenbeschränkungsverordnung*], or the preparation of itemised bills.
- 10.4 T-Mobile make no promises as to the extent to which legal requirements or requirements under telecommunication law or regulatory requirements in countries outside of Austria can be fulfilled on the basis of the M2M SIM cards provided by T-Mobile.
- 10.5 Should the customer use the M2M SIM cards abroad, he shall comply with all specific regulations of the applicable national and international telecommunication law and the customer undertakes to fully comply with all statutory and regulatory obligations at all times. In the case of violations of such obligations the customer shall indemnify and hold harmless T-Mobile.
- 10.6 The customer and T-Mobile assume and agree that in a roaming case the statutory duties regarding data retention and legal interception measures applicable to the customer in the relevant country must be complied with by the relevant "host network providers" on whose networks T-Mobile's M2M SIM cards are roaming.

## 11 Roaming

- 11.1 Pursuant to Article 15 of Regulation 531/2012/EU of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communication networks within the Union the transparency and safeguard measures for regulated data roaming services shall be excluded in the case of M2M services. The parties assume and agree that this exception applies to the M2M mobile communication services being the subject matter of this contract.

## 12 Porting of mobile phone numbers

As telephone services are no subject matter of this M2M contract, porting of allocated phone numbers is excluded (Section 2 of the Austrian Regulation governing the Porting of Phone Numbers [*Nummernübertragungsverordnung/NÜV* 2012]).

## 13 Use by application service providers

- 13.1 Where the customer uses T-Mobile's mobile communication services as a pre-product within an M2M application solution which he provides to his own customers, the following provisions shall apply in addition:
- 13.2 The customer shall be allowed to integrate the M2M mobile communication services provided by T-Mobile into his own product (solution) for end customers, provided that the M2M mobile communication services constitute no separate service as such. In doing so, the customer refines our M2M mobile communication services into a new service and/or permanently integrates the M2M mobile communication services into his own product/service so that the mobile communication content (the M2M mobile communication services) can no longer be seen to a relevant degree. In particular, those products/services allow end customers no access to the free internet and no unlimited telephone services. The customer does not act as a reseller of M2M mobile communication services of T-Mobile. The assignment of pure mobile communication services (connectivity) to third parties for consideration or for no consideration shall be inadmissible in any case.
- 13.3 In the contracts with his customers on M2M system solutions offered by him the customer shall exclude reselling of telecommunication services.
- The customer shall be solely responsible for storing the master data of his end customers for access by public authorities.

# Part III: Responsibility of the customer - what the customer has to observe

## 14 SIM card / codes

- 14.1 SIM cards are the property of T-Mobile. T-Mobile may update SIM card settings at any time; in addition, T-Mobile may ask that they be returned upon expiry of the contract or an agreement on an additional service with the customer.
- 14.2 The customer must protect his SIM cards against harmful influences or improper treatment; the customer shall keep them safe carefully and shall not leave them in places where there is a high risk of theft, e.g. in a car.
- 14.3 In the case of loss, theft or malfunction the customer shall deactivate the SIM card concerned in the M2M Service Portal immediately. The customer shall be responsible for providing his customers with an option to deactivate cards 24/7. In the case of non-compliance the customer shall be liable vis-à-vis T-Mobile for any resulting damage and any profit lost by T-Mobile in the form of the agreed charges.
- 14.4 If the customer informs T-Mobile about the loss or theft by phone, he shall send T-Mobile written confirmation as well. The customer shall in any case take note of the consequences resulting from a failure to notify T-Mobile (Clause 14.3).
- 14.5 The customer shall keep secret codes, such as the password, the user name and the PIN code, and shall keep them safe and in no case together with the SIM card. The customer shall immediately change a

code for his own safety if he suspects that unauthorised third parties know the code. If only T-Mobile is able to change the code, the customer shall immediately instruct T-Mobile to do so. The customer may store codes on PCs, USB sticks or CD-ROMs only in encrypted form.

14.6 If use of the M2M Service Portal has been agreed with the customer, he will be provided with access data (user name and password). The holder of such access data may change settings, order additional services or cancel services in the customer's name. This may have consequences for the amount of the charges.

14.7 The customer shall bear any and all disadvantages if

- a. the customer or other persons misuse the customer's connection, or
- b. T-Mobile suffers disadvantages due to improper storing or use for which the customer is responsible.
- c. The customer shall be responsible for providing his customers with an option to deactivate cards 24/7.

The customer shall refrain from and, where possible, prevent any misuse of T-Mobile's services, including but not limited to threatening or harassing calls, texts, multimedia or fax messages (Section 78 TKG 2003).

## 15 Terminal equipment

15.1 The customer may only use terminal equipment which

- a. is approved by law and which
- b. does not interfere with the communication networks of T-Mobile or other communications networks.

If the customer uses a type of terminal equipment which was not checked and approved by T-Mobile, T-Mobile will be unable to warrant functionality of the services of T-Mobile.

## 16 Misuse; Suspension

16.1 In the case of misuse of an M2M SIM card the customer shall immediately deactivate the card in the M2M Service Portal. Misuse means, in particular, use in violation of the special rules for M2M (see Clause 10).

16.2 In addition, T-Mobile shall be entitled to refuse to provide services to the customer in whole or in part (suspension) if

- a. the customer is late in paying his bills despite a reminder and a warning that the service will be suspended, with which a grace period of two (2) weeks was granted,
- b. T-Mobile has reason to fear that an M2M Connection is being misused,
- c. there is a suspicion that laws (in particular criminal laws) are being violated by means of M2M Connections,
- d. the customer fails to make an advance payment or to furnish security,
- e. T-Mobile is under an obligation to suspend the service due to contracts with roaming partners or an order from a competent public authority,
- f. the customer violates material provisions of this contract,
- g. the customer provides inaccurate or incomplete material data regarding his person or his creditworthiness,

- h. the customer deliberately does not inform T-Mobile of changes in his master data,
- i. the customer's financial situation has provably deteriorated or is threatening to deteriorate and T-Mobile has serious concerns that there will be a payment default on the part of the customer,
- j. the services being the subject matter of this contract are used to an unusually high degree: i.e. the current charges which are not yet due are twice as high as the average monthly charges.

16.3 T-Mobile shall lift the suspension if and when the reason for the same no longer exists.

16.4 T-Mobile reserves the right to charge a reasonable fee in accordance with the service request for a suspension for which the customer is responsible.

16.5 The customer shall be responsible for informing his end customer of any and all risks and measures of suspension stated above.

## 17 Liability

17.1 The customer and T-Mobile shall be mutually liable without limitation for personal injury for which they are responsible.

If T-Mobile is responsible for damage to property, T-Mobile shall reimburse the customer the expenses for restoration of the damaged items up to an amount of EUR 72,000 per case. T-Mobile assumes no additional liability. In particular, T-Mobile shall therefore not be liable for

- a. damages resulting from business interruption,
- b. lost profit,
- c. loss of information or data,

unless this exclusion of liability is in conflict with mandatory statutory provisions.

17.2 The customer shall be liable for administrative tasks and manipulations carried out by his administrator and shall indemnify and hold harmless T-Mobile in any case in which T-Mobile is held liable by third parties in this respect.

17.3 Defective SIM cards will be replaced or the purchase price will be refunded.  
T-Mobile shall not be liable for the expenses necessary to replace defective SIM cards.

17.4 T-Mobile shall not be liable for events of force majeure which make the performance of its contractual services considerably more difficult for T-Mobile or which temporarily impede or render impossible proper performance of the contract. Force majeure means any and all circumstances which are independent of the will or influence of the parties, such as acts of God, government measures, official decisions, blockades, war and other military conflicts, mobilisation, civil unrest, terrorist attacks, strike, lock-out or other labour unrest, confiscation, embargo or other circumstances which are unforeseeable and severe and happen without the parties' fault and occur after conclusion of the contract.

17.5 To the extent that one of the parties is hindered from fulfilling its contractual obligations due to force majeure this shall be deemed no breach of contract and the periods or deadlines stipulated in or on the basis of the contract shall be reasonably extended in accordance with

the duration of the hinderance. The same shall apply to situations in which T-Mobile depends on pre-performance by third parties and such performance is delayed due to force majeure.

## Part IV: Special information about the M2M Service Portal

### 18 M2M Service Portal

Under selected price plans T-Mobile provides the customer with access to T-Mobile's online administration tool, the "M2M Service Portal" (see also the M2M Service Portal Specifications). Where T-Mobile has agreed use of the M2M Service Portal with the customer in the service request, the following terms and conditions shall apply:

- 18.1 Contracts on specific M2M Connections shall be concluded by the customer exclusively electronically via the M2M Service Portal. The customer will receive access data (user name and password) for use of the M2M Service Portal. **The holder of such access data or the user set up by the customer may use the portal to change settings, order additional services or cancel services in the customer's name.** (See also Clause 2 and following)
- 18.2 The customer and the users set up by the customer shall be granted a non-exclusive right that is limited to the term of use and/or the term of contract to access the software functionalities of the M2M Service Portal via the internet (server-based software). The customer shall be granted no rights beyond the above. Thus, the right to use the M2M Service Portal will end upon termination of the last mobile communication contract that was concluded on the basis of this Framework Contract; no separate notice of termination shall be required.
- 18.3 The customer shall not be allowed to use the M2M Service Portal beyond the use permitted under this contract or to allow third parties to use or access the M2M Service Portal. In particular, reproducing or selling the software or parts thereof is not allowed.
- 18.4 The customer shall be liable for all breaches of duties by his users or other third parties who breach duties within the customer's sphere of control, unless the customer proves that he is not responsible for such breaches of duties.
- 18.5 The customer shall not be entitled to demand access to the premises of T-Mobile on which the M2M Service Portal is technically operated.

### 19 Data protection

Protecting customer data is a priority of T-Mobile. Customers can find detailed information on data protection at [magenta.at/datenschutz](https://magenta.at/datenschutz).

### 20 Terms of payment

- 20.1 Unless otherwise agreed, charges shall be due for payment without deductions within fourteen (14) days of receipt of the bill. Monthly charges and other recurring charges will be invoiced by T-Mobile on a monthly basis in the case of readiness for operation.
- 20.2 If the customer gives T-Mobile a SEPA direct debit mandate, T-Mobile shall debit the amount due from the customer's account not earlier than three (3) days after receipt of the bill and the SEPA pre-notification.
- 20.3 For late payment interest of 12% p. a. and at least 4% above the 3-month EURIBOR shall be deemed agreed.
- 20.4 T-Mobile will charge the customer late payment interest at the statutory rate only if the customer has timely raised an objection to his bill in accordance with Clause 23.1 of these GTC and his objection was unjustified (Section 71(3) TKG 2003).
- 20.5 In the case of late payment the customer will be sent a reminder. For this T-Mobile shall charge the customer the necessary, expedient and reasonable dunning costs incurred in accordance with the service request.
- 20.6 The customer may only offset claims of his which have been ascertained by the court or accepted against claims of T-Mobile.
- 20.7 Any special benefits agreed by and between T-Mobile and the customer in the contract (e.g. exemption from the basic charge, inclusive units, bonuses) will not be refunded by T-Mobile in cash.

### 21 What payment modalities are available to the customer? When and how can the customer change his current mode of payment?

- 21.1 In principle, the customer may select from any of the following modes of payment:
  - a. a credit card accepted by T-Mobile,
  - b. SEPA direct debit,
  - c. electronic transfer (teletanking).
- 21.2 T-Mobile will be pleased to inform the customer about the available modes of payment in the course of his registration. Any cost advantages that may be available in connection with the mode of payment selected by the customer can be seen from the service request. T-Mobile expressly reserves the right to allow only a restricted selection of payment options for certain price plans.
- 21.3 All modes of payment listed above shall be accepted with debt-releasing effect.
- 21.4 T-Mobile shall charge a processing fee in accordance with the General Terms and Conditions of Payment for every direct debit note that is not honoured and for every returned direct debit note for which the customer is responsible. This shall not apply where the direct debit was returned in connection with a well-founded objection to the bill.
- 21.5 In the case of a returned direct debit T-Mobile may change the customer's mode of payment to payment by payment order form; for that change T-Mobile will charge the customer a processing fee in accordance with the General Terms and Conditions of Payment.

## Part V: Terms of payment – all about money



21.6 T-Mobile shall fully pass on all charges of the customer's bank.

**22 When is T-Mobile entitled to ask the customer for collateral security?**

22.1 T-Mobile may make provision of its services dependent on an advance payment or the furnishing of a bank guarantee:

- a. in the case of late payment of accounts due by the customer despite reminders, threatening to suspend services and granting of a grace period of two (2) weeks,
- b. if his current charges which are not due yet are at least twice as high as his average monthly charges, or
- c. in the case of well-founded doubts of T-Mobile about the customer's creditworthiness.

22.2 T-Mobile shall refund the customer's security within four (4) weeks of the due date of the final bill, after all outstanding accounts receivable have been deducted.

**23 Where can the customer find reports on use (itemised bills)?**

23.1 If the M2M Service Portal is part of the Framework Contract between T-Mobile and the customer, the customer may view reports on use there at any time himself.

23.2 At the customer's request T-Mobile will send a hard copy of the itemised bill free of charge once every billing period.

**24 Objections to bills**

24.1 If the customer has objections to a bill, he may raise his objections in writing vis-à-vis T-Mobile within three (3) months of receipt of the bill. If objections are raised at a later point in time, T-Mobile shall no longer be obliged to respond to the customer's objections.

24.2 However, the customer may still resort to a court or the Conciliation Board of Rundfunk und Telekom Regulierungs-GmbH (RTR) (Section 71 *TKG*).

24.3 If the customer's objections have been received by T-Mobile in time (as defined in Clause 23.1 GTC) but are unjustified in T-Mobile's opinion, T-Mobile shall issue a statement to the customer to this effect. In that case the customer may also resort to a court or the Conciliation Board of Rundfunk und Telekom Regulierungs-GmbH (RTR) (Section 71 *TKG*).

24.4 If the customer's objection was unjustified, T-Mobile may charge him statutory late payment interest from the due date stated on the bill. If the customer's objection was justified and the customer had made a payment already, he shall be entitled to statutory interest on the amount paid in excess from the date of collection.

24.5 In the case of conciliation proceedings before Rundfunk und Telekom Regulierungs-GmbH the due date of the amount in dispute shall be deferred until the dispute is settled. The regulations of Section 71 *TKG* 2003 shall apply in any case.

**25 Final provisions**

25.1 Austrian law shall apply; its conflict of laws rules and UN Sales Law shall be excluded.

25.2 The exclusive place of jurisdiction for all disputes arising out of or in connection with this contract shall be the court in 1030 Vienna having jurisdiction over commercial matters.

25.3 The customer may transfer or assign rights and duties under this contract to a third party only upon T-Mobile's prior written consent.

25.4 Challenging this contract on account of the *laesio enormis* principle [translator's note: under the *laesio enormis* doctrine an agreement may be challenged based on the argument that the value of the item delivered is less than 50% of the consideration paid] shall be excluded.

25.5 If any provisions of these GTC M2M are or become ineffective, they shall be re-interpreted and/or amended to the effect that the business purpose of the provision concerned will be achieved to the greatest extent possible. The validity of the remaining provisions shall not be affected thereby.

## Part VI: Final provisions - important information on these GTC