



# General Terms and Conditions at mdex GmbH

For commercial clients only

Release: 2019-12-03 (v5.1)

## 1 Scope

These general terms and conditions are set forth to stipulate the legal relationship between mdex GmbH (hereafter “mdex”) and the client. They are to be included as the sole conditions to the contract. This precludes any alternate client-end clauses, even when mdex has not expressly objected to these.

## 2 Suspension

### 2.1

mdex shall be entitled to suspend contractually agreed services, particularly client’s SIM cards, as well as disable client’s access to operator system completely or temporarily,

- a. should the client gives grounds for an immediate dismissal of the contract and/or is more than 10 days overdue in payment of an invoice;
- b. should there be indications that a service is being utilized in an abusive manner;
- c. should there be a threat to the mdex systems, especially the data communication systems, or a danger to the public.

### 2.2

mdex shall be entitled, especially for the security of the client, to completely disable the connection, in the case that usage is registered that strongly deviates from the normal variances and/or there is unambiguous abuse of the connection.

### 2.3

In the instance that the client should not provide an address capable of receiving mail, mdex is entitled to disable outgoing connections until a new and correct address is provided. The client carries the costs of any address inquiries.

## 3 Terms of Payment/ Storage

### 3.1

Payments are due at time of invoicing. If the invoice has not been paid within 30 days of the due date the client is automatically, and without prior receipt of late notice and/or upon expiration of the deadline set in the first late notice, in default. In the event of a client’s default, under reservation of all further rights, an interest rate of 9% over the European Central Bank will be charged.

### 3.2

mdex reserves the right to adjust the prices and fees when sales tax rates change as well as when changes to the costs of network access and use including add-on services or for services of other providers. In the instance

of a price increase of more than 10% with regard to the total invoice, the client is granted special termination rights, the claim of which the client may assert in writing to mdex within 14 days from the notice of the price increase.

## 4 Offsetting / Right of retention / Conveyance

### 4.1

The client may only offset claims from mdex if the client’s claims to be offset are based on this contractual relationship (identical client number) and are legally valid and undisputed.

### 4.2

The administration of a right of retention against charges of mdex is permissible, if the client’s claim is based on this contractual relationship (identical client number) and is legally valid and undisputed.

### 4.3

The client may convey or transfer claims, rights or duties from the contractual relationship only by obtaining prior, written consent from mdex.

## 5 Client responsibilities

### 5.1

Should any personal data or bank details change, mdex must be immediately informed of such changes. This also applies to company changes, changes in company’s legal form and change in company headquarters. The client is obligated to regularly view the email account supplied upon contract closing, and to keep it free for any incoming messages from mdex. If this email address changes, mdex must immediately be informed of this change. In the case that invoices cannot be delivered per email – or if physical invoices are stipulated – per mail, the client must bear the costs incurred from this, including any inquiries into addresses.

### 5.2

The client has been informed that they must keep all of the personal passwords and credentials to the mdex system secret and are not permitted to give access to any third parties.

### 5.3

The client reserves the right to allow third parties to use the connection. In this case the client remains the contractually bound party and is held completely liable for any and all obligations from this contract, especially the compensation obligation. The client is to be held liable for the behavior of third parties whom the client has allowed access to the connection in an accountable manner. For

the purposes of this provision, affiliated enterprises also apply, as defined in section 15 of the German Securities Act.

## 6 Contract length, Termination

Unless otherwise stipulated, an introductory minimum term of 24 months applies. The notice period is 3 months before the end of term. Shall notice not be given by this time, the contract will automatically renew for one year. Terminations must be received in written form. The right to terminate in the event of a “compelling reason” remains untouched.

## 7 Liability

### 7.1

mdex is unconditionally liable to the client with regards to damage to life, body and health, as well as material and financial damages, which are caused deliberate acts of gross negligence. mdex is only liable for material and financial damages caused by slight negligence if such duties are damaged, whose fulfillment is essential to the proper execution of the contract and on whose fulfillment the customer may ordinarily rely, although in such cases liability is only permitted within typical and foreseeable limits.

### 7.2

Insofar as mdex renders telecommunications services, the liability for financial damages may not exceed 12,500 EUR per user, at the utmost 10,000,000 EUR total for all aggrieved parties per damaging event.

### 7.3

Otherwise, any liability is excluded.

## 8 Service disruption, Change of service

### 8.1

Liability for temporary outages or loss of service is excluded, when these are due to acts of nature (i.e. natural catastrophes, nationwide power outages), client's own network outages or outages in the telecommunications networks as well as Internet outages, for which mdex is not responsible.

The same restrictions in liability pertain to unforeseeable circumstances for which mdex is not responsible, if these circumstances make the use of offered services from mdex temporarily unacceptably difficult or impossible, such as substantial malfunction, power supply difficulties, labor dispute or regulatory action.

### 8.2

mdex reserves the right to modestly change the services for the client, insofar as these are changes compelled upon mdex by the network operator and they reasonable for the client. mdex may also modestly change the services independent from the network operators insofar as these changes are reasonable for the client, and mdex reserves the right, in regard to technical changes, to prompt the necessary client participation in making these reasonable changes. The client will be informed of such changes.

## 9 Additional hardware clauses

### 9.1 Retention of title

mdex explicitly reserves the right to ownership of all of the delivered wares until all claims from the contract are settled. Pawning, changing of ownership to third parties or other unauthorized disposal to the detriment of mdex's property is prohibited.

### 9.2 Defects/Guarantee

The inspection, notification and rejection in accordance with section 377 of the German commercial code (HGB) pertain to the client. The limitation period for warranty claims is in deviation from section 438 of the German Civil Code on consumer goods (BGB) and is one year.

### 9.3 Warranty

mdex grants a one year guarantee on all hardware products, with the stipulation that any defective hardware be returned to mdex at the client's expense and it can be proven that the hardware was not destroyed or damaged due to external influences (i.e. electrical surge damage, water damage and/or rough mechanical damages, etc.). mdex repairs defective hardware or exchanges it for an equivalent replacement and returns these to the client at mdex's expense.

## 10 Additional SIM card clauses

### 10.1 Scope of service

The offered services from mdex may exclusively be used for the automatic exchange of data. Speech connections, VoIP, voice mailboxes, information services, etc. are not objects of this contract. The use of such other services is prohibited. The maximum transfer rate is dependent upon the end unit being used, the available network technology as well as the technical and geographic conditions at the location of use. Temporary outages or disruptions of the telecommunication equipment, which mdex uses in order to fulfill its duties, may occur due to reasons of acts of nature, including strikes, lockouts and regulatory ordinances as well as technical changes to the network



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operator's equipment. Furthermore, the network operators reserve the right to completely or partly cease their contractual services for short periods of time, as long as this is necessary for proper network operation.

### 10.2

mdex reserves the right to subsequently change the phone numbers assigned by the network operator, even if these have already been assigned to a user, if this change is based on technical reasons or legal and licensing agreement terms. The transmission rate of the SIM card may be throttled upon exceeding the included traffic volume.

### 10.3 Client responsibilities and liabilities

The client agrees to not abuse access to the services as well as the services themselves, especially

- no detrimental software, prohibited advertising, chain letters or other harassing messages shall be communicated;

- no rights of third parties, especially intellectual property (i.e. copyright or trademark rights) may be impinged upon. The resale of SIM cards is not permissible under the terms of this contract of rendered services and on the part of mdex. If the client should contravene the duties named here, mdex is entitled to do everything in its power to remove the abuse, including blocking or terminating all access. Upon culpable breach of contract, the client is liable for any damages with respect to mdex.

## 11 Additional provisions for public.IP service

With the help of mdex public.IP service, you receive an IP address, which is open to the public worldwide. To ensure a minimum security level, mdex reserves the right to check available routers behind these public IP addresses against standard passwords (manufacturer factory settings). In case of a detected default password, the customer will be informed to change it to a secure password, to be able to promptly prevent the misuse of this service by third parties. If the password is not changed promptly or a misuse has already occurred, mdex reserves the right to set a secure password and to inform the customer of this.

## 12 Additional support ticket clauses

Insofar as the client has entered into a fee-based contract for support/consulting with mdex, the following clauses take effect:

mdex consults and supports the client with individual customization of the mdex products. Every contract party is solely responsible for any actions and neglect, which they undertake in connection with this agreement. mdex guarantees that their consulting services according to this

contract will be carried out with due diligence; mdex is however not responsible for the client's attainment of any specific economic or technical success.

## 13 Miscellaneous

### 13.1

Legal venue is Tangstedt.

### 13.2

The parties' relationship is to be interpreted under German law. The application of the UN CISG is ruled out in this case. Place of fulfillment is the corresponding headquarters of mdex.

### 13.3

There can be no verbal side agreements. Modifications and additions to contracts and these conditions must be made in written form.

### 13.4

If any provision of this Contract is held unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Contract shall remain in full force and effect.