

General Terms and Conditions for the Participation of Streaming Providers in the Zero-Rating Offer of Makedonski Telekom AD - Skopje

1. DEFINITIONS

In addition to terms defined elsewhere in the following general terms and conditions (“**Terms and Conditions**”), the following terms shall have the respective meaning set out below:

- 1.1 “**Agreement**” means these Terms and Conditions to be concluded between the Content Partner and MKT.
- 1.2 “**Affiliate/s**” means all entities worldwide affiliated to MKT (full name) and/or affiliated to its parent company Deutsche Telekom AG (DTAG) as defined in Sec. 15 of the German Stock Corporation Act (Aktiengesetz, AktG).
- 1.3 “**Audio Content**” means pure audio content only, i.e. “Audio Content” does not include advertising, games, software, text, video, personal communication services (e.g. voice calls, chats, messaging) and other content even if such content is combined with and/or contains audio elements.
- 1.4 “**Chat Communication Content**” means services whose major functionality is personal communication (e.g. chats, messaging,) over the Internet. For the avoidance of doubts personal communication arranged through voice & video calls shall not be treated as Chat Communication Content.
- 1.5 “**Cloud Gaming Content**” refers to pure cloud gaming content only, i.e. “Cloud gaming Content” does not include game downloads (actual game is running on a server), software, pure audio content, personal communication services (social games) and other content, even if such content is combined with and/or contains cloud gaming elements.
- 1.6 “**Content Partner**” means the individuals and legal entities that participate in the Zero-Rating Offer by concluding the Agreement with MKT as set out in Section 2.3.
- 1.7 “**Customers**” mean all customers of MKT who have opted for MKT’s Zero-Rating Offer.
- 1.8 “**MKT**” means (Makedonski Telekom AD - Skopje).
- 1.9 “**Navigation content**” refers to pure navigation content, meaning services whose major functionality is visual and voice guide for turn-by-turn navigation and route planning, meanwhile displaying the user’s location on an electronic map,
- 1.10 “**Participating Streaming Providers**” means any Provider of a legal streaming service who has an on-going contractual agreement with MKT for participation in the Zero-Rating Offer.
- 1.11 “**Parties**” means MKT on one hand and Content Partner or Participating Streaming Provided on the other hand.
- 1.12 “**Relevant Content**” means (a) all (i.e. the full catalogue) of the Streaming Service’s Audio Content if Content Partner participates in the Zero-Rating Offer in the Audio Category (cf. Section 5.2 a below), (b) all (i.e. the full catalogue) of the Streaming Service’s Video Content if Content Partner participates in the Zero-Rating Offer in the Video Category (cf. Section 5.2 b below) and (c) all (i.e. the full catalogue) of the Streaming Service’s Social Networking Content if Content Partner participates in the Zero-Rating Offer in the Social Networking Category (cf. Section 5.2 c below), (d) all (i.e. the full catalogue) of the Streaming Service’s Chat Communicators Content if Content Partner participates in the Zero-Rating Offer in Chat Communication Category (cf. Section 5.2. d below), (e) all (i.e. the full catalogue) of the Streaming Service’s Cloud Gaming Content if Content Partner participates in the Zero-Rating Offer in the Cloud Gaming Category (cf. Section 5.2 e below) (f) all (i.e. the full catalogue) of the Streaming Service’s Navigation Content if Content Partner participates in the Zero-Rating Offer in the Navigation Category (cf. Section 5.2 f below) and (g) all (i.e. the full catalogue) of the Streaming Services’ Audio Content, Chat Communication Content, Social

Networking Content, Cloud Gaming Content, Navigation Content and Video Content if Content Partner participates in the Zero-Rating Offer in at least two of the categories (cf. Section 5.2 g below).

- 1.13 “**Social Networking Content**” means services whose major functionality consists of sharing social updates or announcements (including texts) and personal multimedia (including photos) with a specific, pre-determined recipient group over the Internet to build relationships with, or otherwise inform, members of such a group. For the avoidance of doubts providing videos as a personal multimedia within the meaning of this definition shall not be treated as providing Social Networking Content except as expressly set forth herein or otherwise mutually agreed in writing (email sufficient).
- 1.14 “**Streaming**” means both, on-demand streaming and live streaming. On-demand streaming means an end user’s access to content from a place and at a time individually chosen by him, Live streaming means an end user’s live reception of Relevant Content broadcast (e.g. TV and radio) via the internet. The making of copies of the Relevant Content by the end user within the framework of such access for use outside the Streaming Service(s) is not covered by the term “Streaming”.
- 1.15 “**Streaming Service(s)**” means the streaming service(s) offered by the Content Partner as classified by MKT and approved by Content Partner in accordance with Section 2.3 and 5.2.
- 1.16 “**Term**” means the duration of the Agreement as set out in Section 10.
- 1.17 “**Territory**” means Republic of Macedonia; in the event of MKT deciding at its sole discretion to enable Customers to benefit from Zero-Rating in a roaming context, the term “Territory” shall also include additional relevant territories outside of Republic of Macedonia.
- 1.18 “**Types of Use**” means Streaming.
- 1.19 “**Video Content**” refers to pure video content only, i.e. “Video Content” does not include advertising, games, software, texts, pure audio content, personal communication services (e.g. video calls, chats, messaging) and other content, even if such content is combined with and/or contains video elements.
- 1.20 “**Zero-Rate**”, “**Zero-Rated**” or “**Zero-Rating**” means that the data, which is consumed by certain Customers (as set out in Section 5.4 below) when accessing/ receiving Relevant Content meeting the requirements under the Terms and Conditions and provided to them by the Content Partner and other Participating Streaming Providers through MKT’s mobile telecommunication network, does not count towards the respective Customer’s high-speed data allowance stipulated by MKT in the applicable tariff.
- 1.21 “**Zero-Rating Offer**” means MKT’s offer (as described in Section 4 below) to supply Customers to opt for Zero-Rated mobile data traffic regarding the access of Chat Communication Content, Social Networking Content, Cloud Gaming Content, Navigation Content, Audio Content and/or Video Content of Participating Streaming Providers through MKT’s mobile telecommunications network within the Types of Use.
2. GENERAL/SCOPE OF APPLICATION
- 2.1 MKT offers end users innovative data driven products that are based on the end user’s possibility of Zero-Rated access (as described hereinafter) to Chat Communication Content, Social Networking Content, Cloud Gaming Content, Navigation Content, Audio Content and Video Content streaming services of streaming providers who (a) make available to their customers Relevant Content streaming or any combination of the foregoing and (b) participate in MKT’s Zero-Rating Offer as defined below.
- 2.2 Streaming providers who meet the technical requirements for such participation (cf. Section 6) may participate in MKT’s aforementioned Zero-Rating Offer. The fact that a Streaming Provider allows end users to copy Relevant Content outside the Streaming-Service(s) does not preclude the participation with the Streaming-Service in MKT’s Zero-Rating Offer. MKT intends to grant non-discriminatory access to the Zero-Rating Offer to such streaming providers.

- 2.3 The Agreement between MKT and the Content Partner regarding the Content Partner's participation in the Zero-Rating Offer is concluded as follows: Content Partner sends an e-mail with his participation request ("**Participation Request**") to MKT's following e-mail-address: StreamOn-partners@telekom.mk ("MKT's e-mail-address"). In the event that the Content Partner wishes to participate in the Zero-Rating Offer with more than one streaming service, the Content Partner shall send to MKT's e-mail-address a separate Participation Request for each of the streaming services. MKT will then classify (each of) the Content Partner's streaming service(s) as belonging to one of the Categories as described in Section 5.2 and confirm the possibility of the Content Partner's participation by sending back a (separate) "**Classification Notice**" for (each of) the streaming service (s) to the e-mail address of the (respective) Participation Request. The agreement between MKT and the Content Partner regarding Content Partner's participation in the Zero-Rating Offer (hereinafter referred to as "**the Agreement**") is concluded if the Content Partner does not object the (respective) Classification Notice by sending an e-mail to MKT's e-mail-address within two (2) weeks of receiving the (respective) Classification Notice. Content Partner takes note of the fact that even after conclusion of the Agreement Zero-Rating will not start before MKT is able to identify the Relevant Content through the technical information provided by Content Partner according to Section 6. If the Content Partner participates in the Zero-Rating Offer with more than one Streaming Service then an Agreement is concluded for each of the Streaming Services and each Agreement shall be independent from the other(s).
- 2.4 The Terms and Conditions apply to and describe the technical requirements and other rules for such participation and shall form an integral part of the Agreement. Even if MKT does not expressly object to them, the Content Partner's general terms and conditions do not apply unless specifically referred to in the Terms and Conditions. The Terms and Conditions represent the entire provisions relating to the subject matter hereof. No oral side agreements have been made. For the avoidance of doubt it is agreed between the Parties that non disclosure agreements regarding the subject matter of the Agreement that have already been concluded before the launch of the Zero-Rating Offer and prior to the Agreement shall remain in force for the agreed term with regard to all information exchanged between the Parties until the launch of the Zero-Rating Offer.
- 2.5 MKT reserves the right to change the Terms and Conditions for all existing and future Participating Streaming Providers (including the Content Partner) with future effect. MKT will inform the Content Partner about such changes by sending (e-mail sufficient) the Content Partner the changed Terms and Conditions ("**Change Notice**"). In such event Content Partner shall have the right to terminate the Agreement by giving three (3) weeks' written notice to MKT (e-mail to MKT's e-mail-address sufficient). The Content Partner may execute the aforementioned termination right only within three (3) weeks upon receipt of the Change Notice. If the Content Partner does not terminate the Agreement within the aforementioned time period, the changed Terms and Conditions shall become effective on the date set out in the Change Notice ("**Change Effective Date**"); provided that the time period between the date on which MKT sends Content Partner the Change Notice and the Change Effective Date shall not be less than six (6) weeks.
- 3 COMMUNICATION OF THE CONTENT PARTNER AS PARTICIPANT OF THE ZERO-RATING OFFER**
- As soon as MKT is able to identify the Relevant Content through the technical information provided by Content Partner according to Section 6 or the launch date of the Zero-Rating Offer (whichever is later) MKT will communicate the Content Partner and the Streaming Service(s), together with other Participating Streaming Providers, as a participant of the Zero-Rating Offer and Zero-Rate the Relevant Content as set out in the Terms and Conditions, provided that and as long as the Content Partner complies with the Terms and Conditions, in particular with Sections 5 and 6 below. For the avoidance of doubt, the Parties agree that MKT will not act as a reseller of the Streaming Service(s) hereunder. Existing and future agreements between the Parties regarding reselling of content services shall remain unaffected.
- 4 STRUCTURE AND DETAILS OF THE ZERO-RATING OFFER**
- 4.1 The structure and details of the Zero-Rating Offer (including the conditions for Zero-Rating in connection with the Zero-Rating Offer) as well as potential adjustments thereto (including but not limited to deciding whether and which content and/or metadata and/or whether other types of use than those mentioned in Section 1.14 or further types of use to be Zero-Rated in connection with the Zero-Rating Offer) shall be at MKT's sole discretion.
- 4.2 It is at MKT's sole discretion for which end users and under which tariffs the Zero-Rating Offer will be available.
- 4.3 MKT may discontinue the Zero-Rating Offer (i.e. stop offering it to end users) at their sole discretion at any time (provided that MKT shall not discontinue the Zero-Rating Offer before expiry of the notice period as set out in Section 11.3) without incurring any liability whatsoever towards the Content Partner.
- 4.4 The Zero-Rating Offer shall apply inside the Territory only, i.e. Streaming by Customers from outside the Territory are not Zero-Rated (even if the respective Customers meet all requirements for Zero-Rating).
- 4.5 MKT shall inform the Content Partner eight (8) weeks in advance in writing (e-mail sufficient) about all changes in the structure and details of the Zero-Rating Offer that MKT communicates to the Customers ("Structure Changes") and that do not result in a change of the Terms and Conditions via a Change Notice (as set out in Section 2.5). In urgent cases (e.g. hacker attack, requirements imposed by authorities) MKT may make Structure Changes without prior information to the Content Partner; in such event MKT shall inform Content Partner without undue delay of such Structure Changes in writing (e-mail sufficient).
- 5 CONDITIONS FOR ZERO-RATING**
- 5.1 Only Audio Content, Chat Communication Content, Social Networking Content, Cloud Gaming Content, Navigation Content and/or Video Content shall be eligible for Zero-Rating in connection with the Zero-Rating Offer, provided the further requirements for Zero-Rating hereunder are met. The making of copies of the Relevant Content by the end user within the framework of the access to the Streaming Service(s) for use outside the Streaming Service(s) is not covered by the Zero-Rating.
- 5.2 The Content Partner can participate in the Zero-Rating Offer in the following categories (each "a **Category**" and jointly "the **Categories**"):
 - (a) If the Streaming Service offers Streaming of Audio Content only or - in the event of mixed content offers - if the Streaming Service is focused on the Streaming of Audio Content, the Content Partner can participate in the "**Audio Category**";
 - (b) If the Streaming Service offers Streaming of Video Content only or - in the event of mixed content offers - if the Streaming Service is focused on the Streaming of Video Content, the Content Partner can participate in the "**Video Category**";
 - (c) If the Streaming Service offers Streaming of Social Networking Content only or - in the event of mixed content offers - if the Streaming Service is focused on the Streaming of Social Networking Content, the Content Partner can participate in the "Social Networking Category";
 - (d) If the Streaming Service offers Streaming of Chat Communication Content only or - in the event of mixed content offers - if the Streaming Service is focused on the Streaming of Chat Communication Content, the Content Partner can participate in the "Chat Communication Category";
 - (e) If the Streaming Service offers Streaming of Cloud Gaming Content only or - in the event of mixed content offers - if the Streaming Service is focused on the Streaming of Cloud Gaming Content, the Content Partner can participate in the "Cloud Gaming Category";

- (f) If the Streaming Service offers Streaming of Navigation Content only or – in the event of mixed content offers – if the Streaming Service is focused on the Streaming of Navigation Content, the Content Partner can participate in the “Navigation Category”;
- (g) In the event that the Content Partner offers two separate distinguishable Streaming Services (e.g. by offering different apps) for the Streaming of one of the types of the Relevant Content on the one hand and for the Streaming of the other type of the Relevant Content the Content Partner can participate in more than one of the Categories mentioned in the above subsections a – f of this Section 5.2..

5.3 MKT will classify (each of) the Content Partner’s streaming service(s) as belonging to one of the Categories in accordance with the principles set out in Section 5.2.

5.4 The further requirements for Zero-Rating are as follows:

- (a) The Content Partner’s **Audio Content** (if any) is only Zero-Rated in relation to a Customer if the respective Streaming Service is classified hereunder as belonging to the Audio Category, provided furthermore that (aa) the Audio Content is accessed/received by the Customer through MKT’s mobile telecommunication network and through the Types of Use (i.e. types of use other than the Types of Use are not Zero-Rated), (bb) the Audio Content and the Types of Use can be identified by MKT through the Content Partner’s technical information as set out in Section 6 below, (cc) such Customer’s contract with MKT makes provision for a tariff that allows an option for Zero-Rating of Audio Content and (dd) such Customers have each opted for Zero-Rating.
- (b) The Content Partner’s **Video Content** (if any) is only Zero-Rated in relation to a Customer if the respective Streaming Service is classified hereunder as belonging to the Video Category, provided furthermore that (aa) the Video Content is accessed/received by the Customer through MKT’s mobile telecommunication network and through the Types of Use (i.e. types of use other than the Types of Use are not Zero-Rated), (bb) the Video Content and the Types of Use can be identified by MKT through the Content Partner’s respective technical information as set out in Section 6.2 below, (cc) such Customer’s contract with MKT makes provision for a tariff that allows an option for Zero-Rating of Video Content and (dd) such Customers have each opted for Zero-Rating.
- (c) The Content Partner’s **Social Networking Content** (if any) is only Zero-Rated in relation to a Customer if the respective Streaming Service is classified hereunder as belonging to the Social Networking Category, provided furthermore that (aa) the Social Networking Content is accessed/received by the Customer through MKT’s mobile telecommunication network and through the Types of Use (i.e. types of use other than the Types of Use are not Zero-Rated), (bb) the Social Networking Category and the Types of Use can be identified by MKT through the Content Partner’s technical information as set out in Section 6 below, (cc) such Customer’s contract with MKT makes provision for a tariff that allows an option for Zero-Rating of Social Networking Content and (dd) such Customers have each opted for Zero-Rating.
- (d) The Content Partner’s **Chat Communication Content** (if any) is only Zero-Rated in relation to a Customer if the respective Streaming Service is classified hereunder as belonging to the Chat Communication Category, provided furthermore that (aa) Chat Communication Content is accessed/received by the Customer through MKT’s mobile telecommunication network and through the Types of Use (i.e. types of use other than the Types of Use are not Zero-Rated), (bb) the Chat Communication Category and the Types of Use can be identified by MKT through the Content Partner’s technical information as set out in Section 6 below, (cc) such Customer’s contract with MKT makes provision for a tariff that allows an option for Zero-Rating of Chat Communication Content and (dd) such Customers have each opted for Zero-Rating.

- (e) The Content Partner’s **Cloud Gaming Content** (if any) is only Zero-Rated in relation to a Customer if the respective Streaming Service is classified hereunder as belonging to the Cloud Gaming Category, provided furthermore that (aa) Cloud Gaming Content is accessed/received by the Customer through MKT’s mobile telecommunication network and through the Types of Use (i.e. types of use other than the Types of Use are not Zero-Rated), (bb) the Cloud Gaming Category and the Types of Use can be identified by MKT through the Content Partner’s technical information as set out in Section 6 below, (cc) such Customer’s contract with MKT makes provision for a tariff that allows an option for Zero-Rating of Cloud Gaming Content and (dd) such Customers have each opted for Zero-Rating.

- (f) The Content Partner’s **Navigation Content** (if any) is only Zero-Rated in relation to a Customer if the respective Streaming Service is classified hereunder as belonging to the Navigation Category, provided furthermore that (aa) Navigation Content is accessed/received by the Customer through MKT’s mobile telecommunication network and through the Types of Use (i.e. types of use other than the Types of Use are not Zero-Rated), (bb) the Navigation Category and the Types of Use can be identified by MKT through the Content Partner’s technical information as set out in Section 6 below, (cc) such Customer’s contract with MKT makes provision for a tariff that allows an option for Zero-Rating of Navigation Content and (dd) such Customers have each opted for Zero-Rating.

- (g) For the avoidance of doubts it is agreed between the Parties that MKT does not offer the Streaming Service(s) or access to the Streaming Service(s). The Streaming Service(s) is (are) solely offered by the Content Partner and the Content Partner shall be solely responsible for all matters related to the Streaming Service(s) (including but not limited to the operation, maintenance and availability of the Streaming Service(s), and the content (including the Relevant Content) made available to users through the Streaming Service(s), including (but not limited to) the legality of such content, the clearance of rights for its exploitation, user billing and payment collection. Furthermore, it is agreed between the Parties that the Zero-Rating Offer is offered by MKT, that MKT is solely responsible for all matters related to the structure and the details of the Zero-Rating Offer and that MKT shall comply with all applicable laws and regulations relevant to the Zero-Rating Offer, including but not limited to laws on net neutrality.

6 TECHNICAL REQUIREMENTS

6.1 The Relevant Content can only be Zero-Rated if Content Partner delivers technical information as set out in Section 6 (including as agreed between the Parties in accordance with Section 6.2) and Section 7 to make the Relevant Content distinguishable for MKT from other (i.e. not Zero-Rated) content. Furthermore, the Relevant Content can only be Zero-Rated if the Content Partner continuously keeps MKT up-to-date with accurate and complete technical information as set out in Section 6.2 and 6.4 and 6.5.

6.2 The Parties shall mutually agree (exchange of e-mails sufficient) on the specific technical information that Content Partner provides in order to make the Relevant Content distinguishable for MKT and that MKT is able to process. Suitable technical information should consist of IP addresses, protocols used for streaming and URLs and SNIs (for HTTPS) an HTTPS encryption Public Keys, and other technical information used by Content Partner or its external service provider (e.g. CDN provider) to provide the Relevant Content to the Customers. Content Partner acknowledges that in any event server-side TCP and UDP ports must be provided to MKT in addition to any other technical information as agreed between the Parties for making the Relevant Content distinguishable for MKT.

6.3 MKT may - at its sole discretion - also Zero-Rate metadata related to the Relevant Content if Content Partner delivers detection options for such metadata.

6.4 The Types of Use that are eligible for Zero-Rating under the Zero-Rating Offer shall be provided by the Content Partner to his users in such a way that they are distinguishable for MKT

from other types of use that do not qualify for Zero-Rating under the Zero-Rating Offer.

6.5 Any changes made by the Content Partner or by its external service providers to the Content Partner's provision of Relevant Content to its users, including but not limited to Types Of Use, which might knowingly impair MKT's ability to identify the Relevant Content and include same in the Zero-Rating Offer, must be communicated to MKT four (4) weeks in advance in writing (e-mail to MKT's e-mail-address is sufficient) in order to enable MKT to correctly detect Relevant Content for Zero-Rating. In urgent cases (e.g. hacker attack, changes/requirements imposed by authorities) Content Partner may make such changes without prior information to MKT; in such event Content Partner shall inform MKT without undue delay of such changes in writing (e-mail to MKT's e-mail-address sufficient). In case of changes under this Section 6.5 Content Partner shall use best efforts to provide MKT – on MKT's request - access to the beta apps (for all available operating systems) or his website enabling MKT to conduct tests before the launch of such changes. MKT reserves the right to suspend the Content Partner's participation in the Zero-Rating Offer upon prior written notice (e-mail is sufficient), if after changes under this Section 6.5 the Relevant Content cannot be be Zero-Rated by MKT in a timely manner and customer expectations cannot be met. "Suspend" means that the Content Partner will be removed from the Zero-Rating Offer during the period of suspension. MKT shall inform Content Partner of any suspension of the Streaming Service(s) from Zero-Rating in writing (e-mail sufficient) without undue delay. After Content Partner complies with the technical requirements (again) and informs MKT respectively in writing (e-mail to MKT's e-mail-address sufficient), MKT will without undue delay continue to Zero-Rate the Relevant Content.

6.6 MKT reserves the right to change the technical requirements for the participation in the Zero-Rating Offer for all existing and future Participating Streaming Providers (including the Content Partner) by sending (e-mail sufficient) the Content Partner the changed technical requirements („Technical Requirement Change"). In such event the Content Partner shall have the right to terminate this Agreement by giving three (3) weeks' written notice (e-mail to MKT's e-mail-address is sufficient). The Content Partner may exercise such termination right only within three (3) weeks of receiving MKT's aforementioned written notification. If the Content Partner does not terminate the Agreement within the aforementioned time period, the changed technical requirements shall become effective on the date set out in the Technical Requirement Change ("Effective Date"); provided that the time period between the date on which MKT sends Content Partner the Technical Requirement Change and the Effective Date shall not be less than six (6) weeks. In urgent cases (e.g. hacker attack, changes/requirements imposed by authorities) MKT may make such changes without prior information to Content Partner; in such event MKT shall inform Content Partner without undue delay of such changes in writing (e-mail sufficient). In such case MKT reserves the right to suspend (as defined in Section 6.5) the Content Partner's participation in the Zero-Rating Offer upon prior written notice (e-mail sufficient) if changes under this Section 6.6 are not implemented by the Content Partner in a timely manner. After Content Partner complies with the changed technical requirements and informs MKT respectively in writing (e-mail to MKT's e-mail-address sufficient) MKT will without undue delay continue Zero-Rating.

6.7 In the event that Content Partner does not (or no longer) comply with the technical requirements as agreed pursuant to this Section 6 and Section 7 and provided MKT therefore or for other reasons (e.g. because of third party software) cannot distinguish the Relevant Content from other (i.e. not Zero-Rated) content, MKT reserves the right to suspend (as defined in Section 6.5) the Content Partner's participation in the Zero-Rating Offer upon prior written notice (e-mail sufficient). MKT shall inform Content Partner of any suspension of the Streaming Service(s) from Zero-Rating in writing (e-mail sufficient) without undue delay. After Content Partner complies with the technical requirements (again) and informs MKT respectively in writing (e-mail to MKT's e-mail-address sufficient) MKT will without undue delay continue to Zero-Rate the Relevant Content.

6.8 It is agreed between the Parties, that in the event of a breach of this Section 6 by Content Partner or MKT the limitation of liability as set out in Section 10.3 shall apply.

7 FURTHER TECHNICAL REQUIREMENTS FOR VIDEO CONTENT

7.1 Zero-Rating of Video Content is subject to the following rules:

(a) Content Partner provides Video Content over MKT's mobile telecommunications network using adaptive bit rate technology where delivery bit rate is expected to adapt based on the capabilities of the data connection and/or other parameters or as otherwise indicated by the MKT's mobile telecommunications network. In certain tariff options MKT's mobile telecommunications network may limit the bandwidth available for the detectable video traffic („Bandwidth Reduction"). Content Partner is aware of the fact that a fluent and uninterrupted streaming experience may only be achieved by delivering the Video Content at a lower resolution whose data consumption is below the bandwidth limitation applied by MKT.

(b) The Customer may deactivate the Bandwidth Reduction (and thus the Zero-Rating) for Video Content temporarily. In this case it is automatically reactivated after 24 hours. The Customer may reactivate the Bandwidth Reduction at any time. The Customer may also terminate the Zero-Rating Offer.

(c) For Customers who have subscribed to a MKT tariff option, which includes Video Streaming in HD quality, MKT provides – dependent on network capacity – a bandwidth which is sufficient for streaming on highest quality level.

8 CONTACTS

For the execution of the Agreement, each party shall within due time designate a contact person and its' contact details in writing (e-mail sufficient). The Content Partner's contact person will be available to MKT by telephone during normal business hours for all technical questions and comments regarding the participation in the Zero-Rating Offer.

9 LEGALITY OF STREAMING SERVICE(S)

In the event that MKT – at MKT's reasonable discretion - believes that the Streaming Service(s) do(es) not comply with material legal provisions (including but not limited to copyright law) MKT may upon prior written notice (e-mail is sufficient) suspend (as defined in section 6.5) the Streaming Service(s) from Zero-Rating until Content Partner provides evidence that the Streaming Service(s) comply/complies with the legal provisions.

10 LIMITATION ON LIABILITY

10.1 Liability of the Parties for any damage, irrespective of legal cause, including based on tort, contract, liability for defects, or lessor's liability is excluded, unless damages result from:

(a) a culpable (i.e. at least negligent ["leichte Fahrlässigkeit"]) material breach of a contractual obligation in a manner which jeopardises the purpose of the Agreement (that is to say a culpable breach of a Cardinal Obligation ["Kardinalspflicht"]), or

(b) gross negligence ["grobe Fahrlässigkeit"] or intentional wrong behaviour ["Vorsatz"], or

(c) the breach – irrespective of default – of a guarantee ["Garantie"].

10.2 In the following cases, the Parties' liability is restricted to typical and foreseeable damages:

(a) in case of breach of a material contractual obligation (Cardinal Obligation ["Kardinalspflicht"]) that has not been caused by gross negligence ["grobe Fahrlässigkeit"] or intentional wrong behaviour ["Vorsatz"], as well as

(b) in case of breach of other obligations based on gross negligence ["grobe Fahrlässigkeit"] of employees or agents of the Parties that are not officers or executives of the Parties.

10.3 In case of Section 10.2, each party's aggregate liability shall be limited to the amount of EUR 50.000 € per contractual year.

- 10.4 In case of Section 10.2, the Parties are not liable for indirect damages and consequential damages caused by defect or loss of profit.
- 10.5 The limitation of the Parties' liability under this Section 10.1 – 10.4 shall not affect the Parties' liability pursuant to the German Product Liability Act [*Produkthaftungsgesetz*], for personal injury, for fraudulent concealment of a defect or for any guarantee ["Garantie"] assumed by one of the Parties that leads to liability of the respective party irrespective of default.
- 10.6 Sections 10.1 to 10.5 shall also apply in the event of claims against employees or agents of the Parties.

remaining provisions. The Parties shall replace any invalid provision without delay by a valid provision which comes as close as possible to the economic purpose of the invalid provision. The same shall apply for any omissions in the Agreement.

As at: 01.04.2018

11 TERM AND TERMINATION

- 11.1 The Agreement is concluded for an indefinite period. Either Party can terminate the Agreement by giving six (6) weeks' written notice to the other Party.
- 11.2 The right of either Party to terminate the Agreement for a compelling reason in accordance with and under the conditions as set out in Section 314 of the German Civil Code [*Bürgerliches Gesetzbuch – BGB*] shall not be affected thereby.
- 11.3 Moreover, MKT shall have an extraordinary right to terminate the Agreement if it discontinues the Zero-Rating Offer. The notice period for such termination shall be four (4) weeks.
- 11.4 Moreover, the Content Partner shall have the additional termination right as set out in Sections 2.5 and 6.6.
- 11.5 Any notice of termination of the Agreement must be given in writing (e-mail is sufficient). In the event of termination by the Content Partner termination notice shall be send to MKT's e-mail address; in the event of termination by MKT termination notice shall be send to the Content Partner's contact by e-mail.

12 MISCELLANEOUS

- 12.1 Each Party is individually responsible for any costs and expenses it incurs in performing the Agreement.
- 12.2 Any use of a Party's (Owning Party) trademarks, business names, logos, brands and/or brand features and/or other signs by the other Party is subject to the Owning Party's approval (exchange of e-mails sufficient).
- 12.3 Marketing communication of the Content Partner regarding the participation in and the conditions of the Zero-Rating Offer to the public and/or to its users shall be subject to MKT's prior written approval (e-mail is sufficient).
- 12.4 The exclusive place of jurisdiction for all copyright law disputes, industrial design law disputes and label disputes arising from or in connection with the Agreement shall be the District Court [Landgericht] of Cologne. For all other disputes arising from or in connection with the Agreement – including disputes regarding the validity of the Agreement –, it is agreed that Bonn District Court shall have exclusive jurisdiction.
- 12.5 The German substantive law shall apply, to the exclusion of the international law of conflicts and the UN Sales Convention.
- 12.6 The transfer of the Agreement in its entirety shall be permissible only with the prior written consent (e-mail is sufficient) from the other Party, unless such transfer is effected to an Affiliate of the transferring Party (as defined in Section 1.2). The Parties agree that such consent shall not be unreasonably withheld. In the event that a Party transfers the Agreement to an Affiliate it shall inform the other Party in writing (e-mail sufficient) without undue delay of (a) such transfer, (b) the full company name and address of such Affiliate and (c) the date on which such transfer becomes effective.
- 12.7 Changes, amendments to, or termination of the Agreement shall require written form (e-mail sufficient) (Section 2.5 shall, however, remain unaffected). This shall also apply for any agreements modifying or cancelling the requirement for written form (e-mail is sufficient).
- 12.8 Should any of the provisions in the Agreement be invalid or unenforceable in whole or in part, this shall not affect the