

General Terms and Conditions for the Use of the AdStream-API

mobile.de GmbH, Marktplatz 1, 14532 Europarc-Dreilinden, Germany ("AdStream-API GTC")

mobile.de GmbH (hereinafter referred to as "mobile") operates an online marketplace for used and new vehicles (hereinafter, including all associated Internet sites, the "mobile Website" or with regard to each country specific platform, the "mobile Platform") where private persons and dealers (hereinafter, "mobile Users") can offer and search for vehicles.

1 Applicability of the API GTC

1.1 These AdStream-API GTC provide the general terms and conditions for use of the AdStream Application Programming Interface (hereinafter, "AdStream-API") of mobile's database (hereinafter, "mobile Database") by the API PARTNER. With the help of the AdStream-API, the API PARTNER may have access to the mobile Database via "Push"-transmission in order to receive vehicle advertisements (hereinafter, "mobile Listings") or other data from the mobile Database (hereinafter together, "mobile Content") for use within the framework of the Partner Application (as specified in the API Partner Agreement). These AdStream-API GTC apply to contracts between the API PARTNER and mobile concerning the use of the AdStream-API (hereinafter, "API Partner Agreement").

1.2 In the event of contradictions or lacunae, the provisions contained in the API Partner Agreement shall have priority over these AdStream-API GTC and their annexes

1.3 Any general terms and conditions of the API PARTNER shall not be applicable. This shall also be the case if such conditions of the API PARTNER were explicitly pointed out to mobile.

1.4 The parties shall be entitled to use the services of third parties commissioned by them (hereinafter, "Service Providers") for the purpose of performance of their contractual obligations. For the API PARTNER, this applies solely to such Service Providers that provide services/performances necessary for the permitted use of the AdStream-API to the API PARTNER and that the API PARTNER has obligated to comply with the restrictions and obligations under the API Partner Agreement and these AdStream-API GTC, particularly with regard to the secrecy and the data protection provisions.

2 Grant of Rights

2.1 mobile shall grant the API-PARTNER the right limited to the contractual term to use the AdStream-API and the mobile Database for the purpose of including mobile Content in the Partner Application under the conditions set out in the AdStream-API GTC and in accordance with the technical specifications published under services.mobile.de.

The charges, the type and scope of the mobile Content that the API PARTNER may receive, the scope of use and the details concerning the Partner Application within the framework of which the delivered mobile Content may be

used shall be specified in the API Partner Agreement.

2.2 All rights of use granted to the API PARTNER by mobile shall be revocable, non-exclusive, non-transferable, non-sublicensable and limited to the licensed territory if such territory is stipulated in the API Partner Agreement.

2.3 The grant of rights shall include the following uses and restrictions:

(a) Within the framework of these AdStream-API GTC (see Section 3), the API PARTNER shall be permitted to have the Partner Application interact with the mobile Database via the AdStream-API in order to receive mobile Content delivered via the AdStream-API in accordance with the agreed scope.

(b) The API-PARTNER shall be entitled to present the mobile Content in accordance with the provisions in the API Partner Agreement and these AdStream-API GTC, particularly Sections 3 and 4, within the framework of the Partner Application.

(c) The API PARTNER shall not be entitled to use the AdStream-API or present the mobile Content in a form or in a way that makes it possible for third parties to derive the following information:

(aa) Information concerning certain mobile Users (unless this information is publicly available on the mobile Website) or concerning categories/types of mobile Users;

(bb) The average quoted prices or the gross volume in the individual mobile categories;

(cc) Statistics concerning the mobile Website; and/or

(dd) Historizations of price developments and/or offer developments.

If the API-PARTNER is entitled to store mobile Content according to the API Partner Agreement, the restrictions set out under (bb)-(dd) shall not apply with regard to analyses and/or evaluations, which the API-PARTNER performs in accordance with the regulations set out in the API Partner Agreement.

2.4 A prerequisite for the presentation of the mobile Content and the mobile Logo to End Users within the framework of their use of the Partner Application is that the API PARTNER ensures compliance with the following rules:

(a) The API PARTNER shall not disclose its Access Data to End Users.

(b) The API PARTNER may not authorize End Users or make it possible for them to gain control of or exert influence on the functions of the AdStream-API via the Partner Application.

(c) The API PARTNER must obligate each End User in appropriate, legally binding form (e.g., through the conditions of use for the Partner Application) to use the mobile Content obtained within the framework of the use of the

Partner Application solely within the framework of such Partner Application, not to pass it on to third parties, regardless of whether in return for payment or free of charge, and not to commercialize it in any other way.

Each culpable breach of contractual obligations by an End User of the Partner Application shall be deemed a breach of the API Partner Agreement by the API PARTNER.

3 Conditions of Use

3.1 The use of the AdStream-API, the mobile Database and the mobile Content shall be permissible exclusively for the purpose of use of the mobile Content within the framework of the Partner Application and only within the scope of and in accordance with the API Partner Agreement and these AdStream-API GTC.

3.2 Subject to the provisions of the API Partner Agreement and these AdStream-API GTC, the use of mobile Content that is the subject matter of proprietary rights (particularly copyrights and trademark rights and the right to one's own image, such as texts and photos in descriptions of vehicles) will be permitted only if the API PARTNER

(a) uses the mobile Content solely for the purpose of advertising the vehicles posted on the mobile Website by incorporating them into the Partner Application; and/or

(b) has been granted the rights necessary for use of the mobile Content in question from the relevant owner of the rights (e.g., from the mobile User who posted the text or the photo on the mobile Website).

3.3 In order to warrant an efficient use of the AdStream-API capacity, the API PARTNER shall be obligated to program the Partner Application as efficiently as possible and, to the extent possible, to bundle all the function requests. In particular the API PARTNER is obliged to ensure that the connection to the AdStream-API will solely be established via a server of the API PARTNER and not directly by End User devices (see Section 2 API Partner Agreement). In the event that the API PARTNER violates the obligations of efficiency set out in this Section 3.3, mobile shall be entitled to suspend the use of the AdStream-API by the API PARTNER for the respective relevant time period. mobile shall also be entitled to extraordinary termination (termination without notice, 12.3) if the API PARTNER has not remedied the contractual status within a reasonable time.

3.4 The API PARTNER shall be prohibited from using alternative methods such as robots, spiders, scraping or any other different technology (or to facilitate their use or make use of them possible for third parties) so as to access the mobile Website, the mobile Database or mobile Content in order to obtain data and information by such means.

3.5 The API PARTNER shall be prohibited from using the Partner Application in the

dealer domain of the mobile Website, or allowing it to be used there; receiving data shall be permissible only via the use of the AdStream-API provided for this purpose.

3.6 The API PARTNER shall be prohibited from making the mobile Content available to third parties by other means than via the Partner Application or in another manner than that permitted under the API Partner Agreement and these AdStream-API GTC.

3.7 The API PARTNER may not modify, edit, revise, decompile, reverse engineer, disassemble or translate the AdStream-API and the mobile Database or attempt in any other way to transform them into source code, except in the cases permitted by statutory law (Sections 69d, 69e German Copyright Act (*UrhG*)).

3.8 The API PARTNER shall be prohibited from developing and/or deploying software that can be used to breach these AdStream-API GTC or mobile's GT&C for the use of the Public Domain (GT&C PuD, hereinafter "mobile GT&C Public Domain") or the GT&C for the use of the Professional Domain (GT&C PrD, hereinafter "mobile GT&C Professional Domain") of the relevant mobile Platform (hereinafter, collectively "mobile GT&C"). A list of all mobile GT&C with information on the links/URLs can be found in **Annex 1** to these AdStream-API GTC. Exempted from this is the development/ deployment of a Partner Application that allows the End User to carry out a search circumventing the search forms on the mobile Website, contrary to the applicable mobile GT&C. The development and deployment of such Partner Application is expressly permissible under the API Partner Agreement.

4 Presentation of mobile Content

The API PARTNER is authorized to present mobile Content within the framework of the Partner Application solely in accordance with the following provisions:

4.1 The API PARTNER shall not be entitled to change or present mobile Content differently from the way in which it has been made available by mobile in the mobile Database beyond the manner permitted under the API Partner Agreement and these AdStream-API GTC without mobile's express prior written consent. For the purpose of adapting mobile Content to the look and feel of the Partner Application, however, the API PARTNER shall be entitled to change mobile Content in terms of layout and physical configuration. This shall not include changes in terms of content, particularly translations, currency conversions, abbreviations or additions; such changes are prohibited.

4.2 The presented mobile Content must always correspond to the current status of the mobile Database.

4.3 Unless expressly agreed otherwise in the API Agreement, individual mobile Listings and other mobile Content must be clearly marked within the Partner Application as stemming from mobile by using the relevant

mobile Logo and linked in accordance with Section 5 of these AdStream-API GTC.

4.4 The API PARTNER is prohibited from integrating a page of the mobile Website or of a different website of mobile's or of a company affiliated with mobile in terms of Section 15 of the German Stock Corporation Act (*AktG*) in whole or in part by way of framing in a different website and displaying it there. Framing means dividing up the browser window into several separate sections, each of these sections forming a separate website.

4.5 Without prejudice to the provision in Section 3.8 of these AdStream-API GTC, the API PARTNER must comply with all the applicable rules of the mobile GT&C when using and marketing the Partner Application (see **Annex 1**).

4.6 mobile Content may not be posted on websites or apps with content that is political, pornographic, immoral, liable to corrupt the young, criminal or otherwise unlawful or glorifies violence.

4.7 Use of the AdStream-API, the mobile Content and the mobile Databases and the Partner Application, as well as the API PARTNER's advertising, for this may not infringe third-party rights (in particular, trademark rights, personality rights) or applicable law (in particular, consumer protection, data protection and competition law).

5 mobile Logo

5.1 The logo provided by mobile, if applicable, for the mobile Platform agreed upon in the API Partner Agreement (hereinafter, "mobile Logo") may be used only in connection with the contractual use of the AdStream-API as set out in the API Partner Agreement and these AdStream-API GTC and only within the framework of the Partner Application. Which mobile Logo is relevant for which mobile Platform is shown in **Annex 2**. Any use of the mobile Logo beyond this for advertising purposes and/or as reference shall be permitted only after mobile's written consent has been obtained.

5.2 The mobile Logo must establish a link to the mobile Platform stipulated in the API Partner Agreement. For further details of the usage of the mobile Logo, see 4.3 of these AdStream-API GTC.

5.3 mobile shall be entitled to change the mobile Logo at any time. If mobile changes the mobile Logo and requests the API PARTNER to change its use of the mobile Logo accordingly, the API PARTNER shall carry out the requested changes as soon as this is temporarily and financially feasible for the API PARTNER.

5.4 The API PARTNER shall not combine the mobile Logo with other trademarks or labels so as to create a direct spatial or mental association with such other trademarks or labels and/or infringe trademark rights of third parties.

5.5 Restrictions with regard to the use of the mobile Logo:

(a) The mobile Logo may be used only as it is provided by mobile. In particular, it may not be compressed, distended, distorted, deformed, falsified, modified, twisted, scaled or otherwise changed.

(b) The mobile Logo may not be used to identify or brand any content that is not mobile Content.

(c) The mobile Logo may not be used as part of texts.

(d) The mobile Logo may not be used as part of other logos.

5.6 mobile reserves the right to object to a certain placement of the mobile Logo in the Partner Application and/or (if permitted in the individual case) the advertising materials of the API PARTNER. Prior to each publication, the API PARTNER shall send mobile the relevant material or draft presentations ("Drafts") by e-mail for review and approval. mobile shall be entitled to raise legitimate objections within fifteen (15) working days after receiving the Drafts, particularly if mobile assumes that mobile's brand recognition or reputation could be impaired or if the Drafts do not meet the requirements set out in the API Partner Agreement or these API GTC. In the event of objection, the API PARTNER shall change the material in accordance with mobile's objection prior to publication/ distribution.

6 Test Software and Access to Partner Application by mobile

Before the initial use or circulation of the Partner Application (using the AdStream-API), the API PARTNER shall provide mobile with a fully functional test version of the Partner Application for testing (hereinafter, "Test Software"), possibly by providing the appropriate access data, for the entire contractual term and hereby grants mobile the irrevocable, non-exclusive, non-transferable and non-sublicensable right, free of charge, to use this Test Software for testing. mobile shall – except in the cases permitted by statutory law (Sections 69d, 69e German Copyright Act (*UrhG*)) – not modify, edit, revise, decompile, reverse engineer, disassemble or translate the Test Software or attempt in any other way to transform it into source code.

7 API Access Data

The API PARTNER shall not disclose or make available either the API PARTNER's user name and password through which the API PARTNER receives access to the AdStream-API (hereinafter, "Access Data") or the information/instructions provided by mobile regarding the application development to third parties (with the exception of the API PARTNER's Service Providers, to the extent they need such information to exercise their rights as set out in the API Partner Agreement), particularly not to end users of the Partner Application (hereinafter, "End Users"). mobile shall remain the proprietor of all rights to the Access Data. The access to the API may be suspended by mobile with immediate effect if the API PARTNER discloses the Access Data to

third parties in breach of the provisions of this Section 7. Such suspension with immediate effect shall also be possible if there is good cause for a termination without notice in accordance with these AdStream-API GTC.

8 Up-to-Dateness and Availability of the AdStream-API and mobile Database

8.1 All rights granted to use the AdStream-API, the mobile Database and the mobile Content relate exclusively to the current state and scope of the AdStream-API, the mobile Database and the mobile Content provided by mobile during the contractual term. In particular, mobile assumes no warranty that the content of the data included in the mobile Database is correct and up-to-date.

8.2 The AdStream-API and the mobile Database shall be available at least 97 percent of the time on a monthly average. Through the performance of necessary maintenance work and improvements, it can happen for a short period of time that some functions will not be available because they are being serviced or improved.

9 Changes to the AdStream-API

9.1 If mobile modifies, extends or restricts the AdStream-API during the contractual term not only insignificantly (hereinafter, collectively, "Changes"), mobile shall inform the API PARTNER of the Changes relevant to the API PARTNER by e-mail four (4) weeks in advance. If the API PARTNER does not agree to the Changes, the API PARTNER may terminate the API Partner Agreement without notice as of the effective date of the Changes. mobile shall inform the API PARTNER separately of this termination right in the e-mail presenting the Changes. The API PARTNER shall be entitled to no claims whatsoever beyond this against mobile based on such Changes.

9.2 The API PARTNER shall be responsible for making any adjustments to the Partner Application that might become necessary based on such Changes in due time at the API PARTNER's own expense. mobile shall shut down the older version of the AdStream-API when the new version is released.

10 Data Protection; User Data

10.1 The API PARTNER shall, beyond its AdStream-API access, not be entitled to collect and/or process — in particular to store — information relating to mobile Users or their activities on the mobile Website, including their personal data (hereinafter, "mobile User Data") nor mobile passwords.

10.2 The API PARTNER shall collect and process mobile User Data using the AdStream-API only to the extent such data are needed to perform the API PARTNER's obligations under the API Partner Agreement and/or to perform the activities permitted under the API Partner Agreement. The API PARTNER shall not be entitled to use mobile User Data for other than the contractually permitted purposes or exceeding the contractual scope of use nor to disclose mobile User Data to third parties

(with the exception of a Service Provider subject to the provisions set out in these API GTC).

10.3 The API PARTNER may not use the information received through this API Partner Agreement and the performance thereof about mobile Users, particularly personal data such as addresses and e-mail addresses, to send such mobile Users unsolicited messages of any type and/or to send them advertisements or to solicit or entice them away based on their capacity as mobile Users. Likewise, the API PARTNER may not store such information or otherwise keep such information permanently available. The API PARTNER agrees not to sell, rent or lease mobile User Data or to otherwise disclose or transmit such to third parties whether gratuitous or non-gratuitous.

10.4 The restrictions in Sections 10.1-10.3 do not apply if the affected mobile User explicitly opted in to the respective use of their data or such use is otherwise expressly permitted by the law.

10.5 If the API PARTNER requests Access Data, passwords or other personal data from End Users who want to access the mobile Content via the Partner Application, the API PARTNER must comply with the applicable data protection laws; in particular, the API PARTNER must obtain the prior express consent of the End Users for such data to be disclosed to mobile.

11 Charges, Payment Method

11.1 All charges billed by mobile for the performance of the contractual services by mobile are described in the API Partner Agreement. They are net amounts plus value-added tax at the currently applicable statutory rate to the extent such tax is due under the provisions of statutory law.

11.2 The API PARTNER shall be obligated to pay the charges set out in the API Partner Agreement for the contractual services. The charges are due for immediate payment. mobile shall be entitled to demand default interest at the statutory rate.

11.3 If payments are made by direct debit authorization/ direct debit, the API PARTNER shall repay to mobile a fixed rate of €5 for the costs incurred for each direct debit that is not honored or is returned—subject to evidence of higher costs incurred—unless the API PARTNER proves that the API PARTNER is not responsible for the event triggering the loss or that mobile did not incur any loss or a substantially lower loss than the fixed rate.

11.4 If payment is paid on receipt of invoice/Bank transfer, all payments must be remitted to mobile's bank account as indicated on the invoice.

12 Term and Termination

12.1 The commencement date and term are shown in the API Partner Agreement. If not otherwise agreed, the API Partner Agreement shall terminate automatically upon expiration of the stipulated term without any

notice of termination being necessary. If no provision is included in the API Partner Agreement, it shall commence on the date it is signed and shall be deemed concluded for an indefinite period.

12.2 mobile shall be entitled to terminate the API Partner Agreement at any time with thirty (30) days' prior notice effective at the end of a month, and the API PARTNER at any time with thirty (30) days' prior notice effective at the end of a quarter, unless otherwise stipulated in the API Partner Agreement.

12.3 The API Partner Agreement may also be terminated by either party without notice for good cause. Good cause shall be deemed to exist, in particular, if one of the two parties has breached the contract and this breach of contract has not been remedied within thirty (30) days after receiving a warning from the other party. No prior warning shall be required if the API PARTNER

(a) collects, processes and/or transmits mobile User Data to third parties in breach of Section 10;

(b) uses the mobile Logo or the mobile Content not in compliance with the contract, particularly in breach of Sections 2 - 5;

(c) does not report a Security Problem without delay in breach of Section 13.3 or has not remedied such problem within a reasonable period (Section 13.3(b)); or

(d) discloses Access Data to third parties in violation of Section 7.

Otherwise, Section 323(2) of the German Civil Code (*BGB*) shall apply analogously.

12.4 The API Partner Agreement must always be terminated in writing, fax transmission of the notice of termination being sufficient. Otherwise, it will not be valid. Notice of termination by fax must be sent to the following number: **mobile.de GmbH, +49 (0)30 8109 7449**.

12.5 Upon termination of the API Partner Agreement—for any reason—the API PARTNER's access to the AdStream-API will automatically be suspended. All granted rights of use shall cease immediately and automatically. The API PARTNER shall be obligated to terminate the technical connection to the AdStream-API without delay so that it is no longer possible to transmit mobile Content and to delete all mobile Content and mobile User Data from the API PARTNER's servers irretrievably within ten (10) days.

13 Security and Stability

13.1 The API-PARTNER acknowledges that it is in the interests of both parties for mobile to maintain a secure and stable network environment. Therefore, mobile reserves the right to modify the method of accessing the AdStream-API, the mobile Database and/or the mobile Content if this is necessary to maintain or improve the operative stability and security of the mobile system. In this regard, mobile shall also consider the extent to which such a modification can be

reasonably expected of the API PARTNER. mobile shall inform the API PARTNER of planned modifications prior to their implementation. If the API PARTNER does not agree to these modifications, the API PARTNER may terminate the API Partner Agreement without notice as of the effective date of the modifications. mobile shall inform the API PARTNER separately of this termination right in the information about the planned modifications.

13.2 The API PARTNER agrees that mobile may suspend the API PARTNER's access to the AdStream-API, the mobile Database and/or the mobile Content temporarily in the event of any deterioration or instability of its system or in the event of an emergency (particularly if maintaining the API PARTNER's access to the AdStream-API could lead to a failure of major functions of the mobile system or would not merely insignificantly affect its operation, or in order to prevent access by unauthorized third parties to the data stored by mobile) if this is necessary to minimize risks to the mobile systems and to maintain the operative stability and security of the mobile systems. mobile shall inform the API PARTNER without delay of any such necessary suspension of access. Should access be suspended for longer than five days without interruption, the API PARTNER may terminate the API Partner Agreement without notice unless the API PARTNER is responsible for the reasons for the suspension.

13.3 In the event the API PARTNER's security systems (e.g., firewall) are compromised and because of this unauthorized third parties receive mobile Content or mobile User Data (in particular, personal data such as mobile Access Data and passwords) or the API PARTNER has legitimate reason to assume that its security systems might have been compromised (hereinafter, "**Security Problem**"), the API PARTNER shall inform mobile without delay by e-mail (to the contact for technical support specified in the API Partner Agreement) unless such immediate notification is not permissible under applicable law. In this regard, the API PARTNER shall also inform mobile whether and to what extent mobile (the mobile Website, mobile Content, mobile Users, the mobile Database, mobile User Data, etc.) is affected by this Security Problem or can be affected in the estimation of the API PARTNER. The API PARTNER shall also inform mobile of the period within which the Security Problem will be resolved (if known) and shall name a contact person for mobile (with telephone number).

(a) If a Security Problem occurs, the API PARTNER shall switch off the Partner Application without delay or isolate the mobile Content and the mobile User Data and secure it against third-party access. mobile may request that the API PARTNER disconnects the API PARTNER's databases, servers and/or networks if there are reasons for assuming that mobile Content or mobile User Data are affected by the Security Problem.

(b) Should the API PARTNER not take any action in the event of a Security Problem, or

should action taken by the API PARTNER be unsuccessful, mobile shall be entitled to suspend the API PARTNER's access to the AdStream-API and the mobile Content until the Security Problem is resolved. Should the API PARTNER not resolve a Security Problem within a reasonable period, mobile shall be entitled to terminate the API Partner Agreement without notice for good cause pursuant to 12.3.

(c) mobile shall also be entitled to terminate the API Partner Agreement without notice for good cause pursuant to 12.3 if mobile discovers that the API PARTNER did not report a Security Problem without delay in breach of 13.3.

14 Confidential Information

14.1 "**Confidential Information**" means all information about the affairs of either party, irrespective of form (particularly the AdStream-API, the mobile Database, all documentation, instructions, codes, libraries and computer programs that mobile makes available to the API PARTNER with regard to the AdStream-API and the mobile Database), files, drawings, know-how, interfaces, customer data, the Partner Application, financial and business data, such as analyses, calculations, strategy papers, information concerning products, pricing, turnover and margins that such party (hereinafter, "**Disclosing Party**") makes available to the other party (hereinafter, "**Recipient**") or of which the Recipient gains knowledge during the performance of the API Partner Agreement and that are not expressly designated as "not confidential." Information made available to the API PARTNER by companies affiliated with mobile in terms of Section 15 of the German Stock Corporation Act (*AktG*) shall be treated as Confidential Information made available by mobile. Documents produced by the Recipient that contain or are based on the aforementioned information shall also be considered Confidential Information.

14.2 Exempt from the confidentiality obligation shall be information for which the Recipient can prove that (i) the Recipient received such information after the closing date of the API Partner Agreement from a third party not under any confidentiality obligation, provided that such third party did not breach any existing confidentiality obligation towards the Disclosing Party by disclosing the information, (ii) such information was known to the Recipient prior to the closing date of the API Partner Agreement or was already public knowledge at that time or (iii) such information became public knowledge after the closing date of the API Partner Agreement without any breach by the Recipient of the obligations contained in this Section 14. This Section 14 likewise shall not apply to information that must be disclosed based on mandatory provisions of statutory law, final and absolute court decisions or administrative orders. To the extent permitted by law, the party obligated to disclose the information shall be obligated to inform the other party in

advance or without delay of the disclosure and to endeavor not to disclose the information to the general public and to conclude an appropriate confidentiality agreement.

14.3 The Recipient undertakes to use the Confidential Information exclusively for the purpose of performing the API Partner Agreement. Any use for other purposes shall require the prior written approval of the other party. The Recipient undertakes to treat Confidential Information as confidential and not to disclose Confidential Information to third parties without the Disclosing Party's prior written approval. Third parties in terms of this provision shall not mean companies affiliated with the Recipient in terms of Section 15 of the Stock Corporation Act (*AktG*), provided that the disclosure of Confidential Information to such affiliated companies is necessary for the performance of the API Partner Agreement. With regard to the confidentiality of Confidential Information, the Recipient shall exercise the level of care and take the protective measures that the Recipient normally applies to protect the Recipient's own confidential information, at least the level of care that is customary in business. In this regard, the Recipient shall, in particular, take adequate measures to protect the Confidential Information against unauthorized disclosure, reproduction and use.

14.4 The Recipient undertakes to make Confidential Information available only to those employees and Service Providers to whom disclosure of the information is necessary for the fulfillment of the contractual purpose. The Recipient may make the Confidential Information available only to employees and Service Providers who have undertaken to hold such information in confidence to the extent set out in this Section 14 before receiving access to the Confidential Information.

14.5 For each individual case of culpable breach of the confidentiality obligation, the party breaching the obligation undertakes to pay liquidated damages to the other party in the amount of €10,000, which shall be credited towards any damage suffered by the Disclosing Party as a consequence of the breach of the confidentiality obligation.

14.6 After the termination of the API Partner Agreement, the Recipient shall return all Confidential Information belonging to the Disclosing Party and all documents or media containing such Confidential Information, including all copies or excerpts, to the Disclosing Party or, if no physical return is possible, irretrievably delete such Confidential Information.

14.7 This confidentiality obligation shall apply for the term of the API Partner Agreement and for an additional three years after its termination and shall also be binding on any legal successors.

14.8 The API PARTNER shall not be entitled to issue any public statement concerning the API Partner Agreement, its content, the use of the AdStream-API or mobile's API

Partner Program without mobile's prior written approval. Such approval may be withheld or granted at mobile's sole discretion.

15 Limitation of Liability

15.1 In the event of intentional behavior, gross negligence and claims based on the German Product Liability Act (*ProdHaftG*), fraudulent concealment of defects, claims based on a warranty (*Garantiehaftung*) and in the event of injury to life, body or health and in the event of breaches of the duties under Section 10 (Data Protection) and Section 14 (Confidentiality) and of indemnity claims (Section 16) and claims based on default of payment, the parties shall be liable pursuant to statutory law.

15.2 In the event of simple negligence, the parties shall be liable, subject to the provision in 15.1, only if a material contractual duty has been breached, the term "material contractual duty" meaning such duties the fulfillment of which makes the due performance of the contract possible in the first place, on the compliance with which the other party may normally rely and the breach of which jeopardizes the achievement of the contractual purpose. In such cases, liability shall be limited to the typically foreseeable damage at the time of conclusion of the contract. In all other cases, liability for simple negligence shall be excluded.

15.3 Moreover, in cases involving a breach of material contractual duties due to simple negligence, the liability of the parties for all indirect damage, particularly loss of profit, shall be limited per event causing damage to the higher of (i) €20,000 or (ii) the aggregate charges payable to mobile within the last twelve months preceding the event causing damage.

15.4 In the event of non-fault liability for any impossibility or deterioration occurring during default, the liability of the parties shall likewise be limited to the typically foreseeable damage at the time of conclusion of the contract.

16 Indemnification

16.1 The API PARTNER shall indemnify mobile, its employees and vicarious agents and the companies affiliated with mobile in terms of Section 15 of the German Stock Corporation Act (*AktG*) upon first demand against any claims asserted by third parties against mobile based on

- (a) any use of the granted rights by the API PARTNER in breach of contract;
- (b) the use of the Partner Application by the API PARTNER or by third parties; or
- (c) any use of mobile User Data by the API PARTNER in breach of contract or in violation of law.

16.2 The costs for mobile's legal defense against such claims, including reasonable attorneys' fees, are also included in this indemnity claim.

16.3 mobile shall grant the API PARTNER the right to control the investigation, defense

and settlement of such a third-party claim to the extent permitted under the law. Under no circumstances may the API PARTNER conclude a settlement agreement or issue an acknowledgement that affects mobile's rights or interests without mobile's prior written approval.

16.4 This shall not affect any other claims or rights of the parties.

17 Amendment of the AdStream-API GTC

mobile reserves the right to amend or change these AdStream-API GTC and their annexes at any time. The amended AdStream-API GTC shall be sent to the API PARTNER by e-mail at least thirty (30) days before they come into effect. If the API PARTNER does not agree to the validity of the amended AdStream-API GTC, the API PARTNER may terminate the API Partner Agreement without notice as of the effective date of the amendments. Otherwise, the amended AdStream-API GTC shall be deemed accepted by the API PARTNER upon the effective date. mobile shall inform the API PARTNER separately of this consequence and of the termination right in the e-mail containing the amended AdStream-API GTC.

18 Miscellaneous

18.1 The API Partner Agreement and these AdStream-API GTC represent the entire agreement and arrangement between the parties regarding the subject matter of the contract and shall replace all oral or written agreements or arrangements reached by the parties regarding the subject matter of the contract.

18.2 Any amendments or additions to the API Partner Agreement or these AdStream-API GTC—including this written form clause—and their annexes must be in written form to be valid, transmission of the signed declarations by fax being sufficient. Unless expressly agreed otherwise, all other notifications within the framework of the API Partner Agreement may be transmitted by e-mail to the e-mail addresses provided for contractual communication. Oral and telephone communications shall not suffice, however.

18.3 The rights and/or duties arising from the API Partner Agreement may be transferred or assigned to third parties by the API PARTNER only with mobile's written approval. The API PARTNER hereby agrees that mobile may transfer its rights and duties arising from the API Partner Agreement in whole (assumption of contract) or in part at any time to a company affiliated with mobile in terms of Section 15 of the Stock Corporation Act (*AktG*). In such case, mobile shall bear subsidiary liability for the performance of the contractual obligations entered into towards the API PARTNER.

18.4 Should one or more of the provisions of the API Partner Agreement be or become invalid, this shall not affect the validity of the remaining provisions hereof. Section 139 of the German Civil Code (*BGB*) shall not be applicable. The parties undertake to re-

place any such invalid provision by a valid provision that most closely reflects what the parties would have agreed upon with due regard to the purpose of the contract had they been aware of the invalidity of the provision on the closing date. This shall apply analogously in the event of contractual gaps.

18.5 The API Partner Agreement and these AdStream-API GTC, as well as all legal relations between the API PARTNER and mobile shall be governed exclusively by the law of the Federal Republic of Germany, excluding all international and supranational (contract) laws, particularly the United Nations Convention on Contracts for the International Sale of Goods (UNCISG). However, should the API PARTNER be a consumer, this shall apply only to the extent there are no mandatory provisions of statutory law, particularly consumer protection laws, that oppose this.

18.6 The place of performance and exclusive place of jurisdiction shall be Berlin, Germany, if the API PARTNER is a merchant in terms of the German Commercial Code (*HGB*), a public-law fund or a body corporate organized under public law. However, mobile may sue the API PARTNER at the API PARTNER's general place of jurisdiction. If the API PARTNER is a consumer, the places of jurisdiction provided for under statutory law shall apply.

Annex 1: mobile GTC and mobile Privacy Policy

The relevant current mobile GTC and mobile Privacy Policy for the relevant mobile Platform can be found under:

☒ **mobile.de (Germany)**

- General Terms and Conditions for Using the Public Domain of the mobile.de Service (GTC-PuD)
http://cms.mobile.de/en/home/agb_oeb.html
- General Terms and Conditions for Using the Professional Domain of the mobile.de Service (GTC-PrD)
http://cms.mobile.de/en/dealer/gtc_professional_domain.html
- mobile.de: Privacy Policy
http://cms.mobile.de/en/home/privacy_policy.html

☒ **automobile.fr (France)**

- Conditions générales d'utilisation de l'Accès Pro du site Web automobile.fr (ci-après désignées comme les « Conditions d'Utilisation de l'Accès pro »)
<http://www.automobile.fr/conditions+generals+access+pro/pg:gtc>
- Politique de confidentialité du site automobile.fr
<http://www.automobile.fr/confidentialit%c3%a9/pg:privacy>

Annex 2: mobile Logo

