Service Description for the Webhosting/HomepageTool

1 Area of application

The «Webhosting/Homepagetool Service Description» («Service Description») of Swisscom (Switzerland) AG («Swisscom») applies in the area of webhosting, in addition to the Terms and Conditions of Business for Swisscom services («AGB»). In the event of inconsistencies, this Service Description takes precedence over the terms and conditions of business.

The subject of this Service Description is Swisscom's webhosting and homepagetool services («Services»).

Additional components of this Service Description are the following documents:

> - **Webhosting Price overview/Datasheet**
> - **Webhosting Rules of Conduct**
> - **Webhosting Spam Policy**
> - **Hosting Code of Conduct (HCC) of simsa (the Swiss Internet Industry Association)**

For customers who have a domain name registered and/or managed by Swisscom, the **Service Description for the Registration and Management of Domain Names by Swisscom** also applies.

These documents are published on http://www.swisscom.ch/sme/it_hosting/webhosting/index.htm and are approved by the customer by registering for one of the services or by continuing to use the latest version of a service.

If Swisscom makes third-party software available for download or use, the customer must accept the licence agreement provisions of the corresponding holder of the rights to this software.

The webhosting and homepagetool services may only be used by customers who have their place of business or residence in Switzerland.

Use of the service is restricted to the customer's business and in the case of natural persons to use by the respective customer. Customers are not entitled to make a service that they have purchased available to third parties (free of charge or in return for a fee).

2 Swisscom services

2.1 Webhosting

The webhosting service provides the hosting of a customer's website for a fixed monthly fee on the Swisscom web server on the terms of the ordered webhosting package. The individual webhosting packages and the corresponding fees and the minimum contractual term are available on the current price overview at http://www.swisscom.ch/sme/it_hosting/webhosting/uebersicht/index.htm.

Only one internet appearance is allowed per webhosting package.

2.2 Homepagetool

The homepagetool service allows customers to create, design and update their website on the terms of the ordered homepagetool package for a fixed monthly fee. The individual homepagetool packages and the corresponding fees and the minimum contractual term are available on the current price overview at http://www.swisscom.ch/sme/it_hosting/homepage_tool/index.htm.

The homepagetool service may only be subscribed to in conjunction with the webhosting service.

2.3 Upgrade/downgrade

A service may be upgraded to a higher quality package at any time, but a service downgrade to smaller packages is only possible at the end of the contractual term.

2.4 Technical adjustments

Swisscom aims to maintain its infrastructure to the latest industry standard. New technical developments, security requirements and/or changes to the service

range of Swisscom's contractual partners or to the software used by Swisscom may result in the extension or restriction of the service range. This does not give customers the right to terminate the agreement as long as the aforementioned changes are not subject to a charge.

2.5 Technical support

2.5.1 Fault acceptance

The Swisscom Help Desk is available to customers round the clock (7x24h) for technical support in the case of faults, and can be contacted in German, English, French and Italian on free phone number 0800 888 500 and also at support@hostcenter.ch.

2.5.2 Maintenance windows

Where possible, Swisscom will inform customers in good time about business interruptions which are necessary for the purpose of faults rectification, periodic maintenance work, the introduction of new technologies, etc. Swisscom aims to keep interruptions to a minimum and to schedule them at times of low traffic.

2.5.3 Restoration of data

Swisscom services do not include any restoration of data where data is lost. Customers are solely responsibleforbackinguptheirdatabasesandtheirfilesandemails. Swisscomrecommendsthat customers backs up data as well as databases and files and emails separately.

To the extent that data still exists, the customer has the possibility of requesting the restoration of data by Swisscom against payment of the effective time involved in the event of data loss.

Homepagetool data cannot be restored.

3 Customer contribution

3.1 Duty to cooperate

Infrastructure

Customers shall create and maintain the necessary infrastructure, namely internet connections and the necessary software and hardware, in good time and at their own expense. In addition, customers are obliged to keep the software they use technically up to date, maintain the software regularly and carry out regular updates and follow any instructions from Swisscom with regard to maintaining, updating or deleting software.

Passwords

Customers shall undertake to choose suitable passwords, store them carefully and protect them from third-party access. Customers are personally responsible for the use of passwords. If customers identify abuse of their account, they must inform Swisscom immediately.

Faults

Customers must report faults to the Swisscom Helpdesk immediately on the free phone number 0800 888 500.

Responsibility for contents and accounts

The customer is responsible for all forms of data that it publishes on websites hosted by Swisscom. Illegal, offensive or inadmissible content and content that causes anxiety or annoyance to third parties is totally prohibited. In particular, content that infringes the rights of third parties, especially intellectual property rights in the broad sense (e.g. copyright or trademark rights), or personality rights, or that constitutes a criminal offence (particularly in the areas of pornography, the portrayal of violence, racism and libel) is forbidden.

The customer notes and acknowledges that Swisscom may examine hosted content if it receives information that content hosted by Swisscom is illegal ("notice"), if Swisscom is instructed to do so by a court or other authority, or if it

could be held legally responsible or liable itself. Swisscom is not obliged to monitor content, but is entitled to carry out spot checks, even if it has not received a notice. If a notice is received, content is inspected in accordance with the notice and take down procedure described in the HCC. The detailed rules of conduct are published in the [Webhosting Rules of Conduct](#) and the [HCC](#).

The customer ensures that its webhosting account is not misused by unauthorised third parties for illegal purposes (spam, phishing, DDOS attacks, malware, etc.).

3.2 Imprint obligation for electronic e-commerce

Customers who present offers (goods, works, services) on their website which are publicly accessible are obliged to incorporate the following information in their websites:

- Customer's first name and surname; in the case of companies the name of the company;

- Address of place of residence or company's registered office;

- Telephone and fax number(s), email address(es) and any other available contact addresses which   enable direct and efficient communication. Po Box addresses or the possibility of email communication solely via a contact form will not suffice.

3.3 Lacking identity of domain holders – webhosting customers

If customers purchase the webhosting service based on a domain name that belongs to a third party, they give an undertaking when purchasing the webhosting service and when simultaneously accepting the existing service description they have been authorised by the holder of the domain name to purchase the webhosting service for the corresponding domain name in their own name.

If a person proves that the domain name does not belong to the webhosting service customer, but to them personally, Swisscom shall terminate the existing

webhosting agreement (see sub-section 7.3) at the domain name holder's request and reactivate the domain name for the holder, who can for his part purchase the webhosting service for this domain name from Swisscom.

It is not possible to transfer the existing webhosting agreement or the contents from the original webhosting customer to the domain name holder. The agreement with the existing webhosting service customer will be terminated. The existing customer is personally responsible for backing up the contents. The domain name holder is not for his part entitled to the contents/data of the original webhosting account. Backup of data by Swisscom is not possible, nor is the migration of contents and the configuration of the original website on the webhosting account newly created by the domain name holder, even if permission has been obtained from the original webhosting customer.

3.4 No rights of economic beneficiaries vis-à-vis Swisscom

Customers of the webhosting service can only be a natural or legal person; several persons together who do not represent a legal entity cannot be a customer collectively. If a customer purchases the webhosting service in his or her own name, the legal relationship only exists between this person and Swisscom even if this person operates the website on behalf of an association or legal person. The association or economic beneficiary have no right to being informed of the access data for the webhosting account.

To avoid disputes which Swisscom cannot settle for its part, associations in particular are advised to purchase both the domain name and the webhosting service in the association's name and not in the name of the association member that is responsible for operating the website.

4 Billing/Payment default

4.1 Billing

The customer shall pay the fees accruing for the services purchased. The payment obligation shall start upon activation of the respective service by Swisscom. A delay caused by the customer shall not release him or her from the obligation to pay. Swisscom shall bill the customer retroactively. If the month has already

started, the customer will be billed for each day of the pro rata share of the monthly fee.

4.2 Payment default

If the customer has not paid the invoice by the due date or within the specified payment period, Swisscom may interrupt service delivery after an unsuccessful reminder, i.e. temporarily block the customer's webhosting account, take other measures to prevent damage and/or terminate the agreement without notice and compensation. In this case all domain names will be released for deletion provided they are registered and billed via Swisscom. In the event of temporary blocking of the customer's webhosting account, Swisscom shall demand a fee of CHF 10.00 to reactivate the account. Monthly fees are still owed during the temporary blocking period.

5 Warranty/Liability

In addition to the warranty and liability provisions in the terms and conditions of business for Swisscom's services (sub-sections 11 – 12) the following provisions shall apply. In the event of inconsistencies they shall take precedence over the provisions of the terms and conditions of business:

The liability of Swisscom and third parties commissioned by Swisscom for damage caused through use of the services as a result of simple negligence is excluded. Swisscom is also not liable for consequential damage, production shortfall, lost profit and data loss subject to mandatory legal liability requirements.

Swisscom cannot guarantee that the customer's website will be available on the internet without interruption and that the data requested by the customer will be transmitted accurately and without a time delay by the internet.

Swisscom does not bear any responsibility for the faults and freedom from defects of the software used by the customer and cannot guarantee that the services will work flawlessly on all the customer's end devices.

If changes are made to name server information (DNS) by the customer, Swisscom shall not be liable for any delays which are caused by the customer (e.g. delayed

response to confirmation emails, etc.).

Swisscom does not accept any liability for the improper use of its infrastructure by third parties (e.g. computer viruses, hacker attacks and the like).

Swisscom shall not accept any costs for work carried out by the customer or third parties commissioned by the customer in connection with the limitation and/or repair of any faults relating to one of its services. Costs for work carried out by Swisscom in connection with the limitation and/or repair of any faults relating to one of its services shall also be borne by the customer if the customer has demanded the inspection and the cause of the fault is attributable to the behaviour of the customer or the equipment it uses.

6 Measures in the event of misuse

Swisscom reserves the right to take measures and impose whatever sanctions it considers appropriate if it receives a notice or has good reason to suspect that an offence has been committed, if the rules of conduct are breached or if websites are otherwise misused. Such measures are also taken if the requirements of the notice and take down procedure (HCC, paragraphs 6 and 7) are met. If the customer fails to meet Swisscom's request that it act lawfully within the deadline set by Swisscom, Swisscom can choose to withdraw its services without further warning and deactivate or block access to the customer's website, cancel the contract without notice or compensation, take other measures and/or, if appropriate, claim damages. Swisscom can demand a surety from the customer as a precautionary payment to cover such damages. If this surety is not paid, Swisscom can withdraw its services. If there is imminent danger, Swisscom can also take these measures without advance notice.

If the customer or a third party controlled by the customer behaves illegally, Swisscom is entitled to report the offences and the customer's identity to the criminal authorities and/or to the KOBIK (Swiss body coordinating the fight against cybercrime).

7 Termination

7.1 Termination of the services with due notice

The webhosting and homepagetool services may be terminated by each party in writing in compliance with a notice period of 30 days effective at the end of each month, but at the earliest at the end of the minimum contractual term of 12 months.

In the event of a domain registered by Swisscom for the customer the customer must expressly state when terminating the webhosting and/or homepagetool services whether Swisscom should continue registering the corresponding domain name at the customer's expense or cancel it on the next possible termination date. If no information is provided by the customer, Swisscom is entitled to cancel the corresponding domain name on the next possible termination date pursuant to the contractual terms of the corresponding register operator. The customer is solely responsible for looking for a (new) register operator for his or her domain name and for concluding a corresponding agreement with the register operator directly and for carrying out the domain transfer on time (i.e. before the registration period runs out).

In the event that Swisscom continues to register a domain at the customer's request, this agreement will continue to apply within the scope of the Domain Parking service (sub-section 2.3.2.) and the customer shall be obliged to pay the fees accruing for this package until the corresponding agreement has been terminated and the registered domain deleted.

7.2 Termination at the domain name holder's request

If the domain name holder, who is not identical to the webhosting service customer, asserts his or her rights to his or her domain name (sub-section 3.3), Swisscom is entitled to terminate the webhosting service at any time with respect to the customer within 15 days.

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