



**swisscom**

# Fixed Telephony Network

## General Terms and Conditions

### 1 Scope of application

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These General Terms and Conditions of Business govern the full or partial use of the fixed telephony network of Swisscom (Switzerland) Ltd (hereafter referred to as "Swisscom") for the transmission and switching of voice and data communications.

### 2 Services provided by Swisscom

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#### 2.1 Network access

Swisscom provides customers with an analogue (e.g. EconomyLINE) or digital (e.g. MultiLINE ISDN) connection to the fixed network. If it is necessary to install a new network access, Swisscom bears the average costs for such a connection.

Swisscom may provide a shared network access if an insufficient number of lines is available or for other well-justified reasons. Swisscom may, in exceptional cases, provide a wireless access to customers who are entitled to a network access under the universal coverage provisions of the Telecommunications Act.

#### 2.2 Telephone Numbers

The numbers assigned to customers by Swisscom are taken from the number block reserved for their area by the authorities. These numbers are exclusively for the customer's use and are non-transferable. For a defined charge, customers can select an available number from Swisscom's "Top Number" range. The customer has no entitlement to a specific number. The number is not the property of the customer and cannot therefore be sold, pledged as collateral or passed on by inheritance or transferred to third parties in any other way without explicit permission from Swisscom.

Swisscom can change customers' numbers without being liable for compensation if this proves necessary for operational or technical reasons or if required by the authorities.

#### 2.3 Directory

Unless otherwise instructed, Swisscom enters customers in a directory or permits third parties e.g. Swisscom Directories to register them. Swisscom has no obligation to check the accuracy of the information provided by the customer for the entry.

#### 2.4 Prevention of use of address for advertising purposes

If the customer does not wish to receive telemarketing calls he/she can have his/her address blocked against such calls by adding the \* sign. The address will only be passed on to third parties who publish the directory. Other companies within the Swisscom Group as well as

providers of services which the customer uses over the network (see Section 7) are not regarded as third parties. The address will not be passed on for any other purposes.

#### 2.5 Transmission of voice and data

Customers can make calls and exchange data with each other and with the customers of other operators with whom Swisscom has concluded appropriate agreements.

Within the boundaries of the current technical and operational possibilities, Swisscom provides the additional services listed in the supplementary sheets entitled "Scope and Selection of Services", provided customers have suitable PBX systems.

#### 2.6 Fixed network maintenance

Swisscom is responsible for the maintenance of its network within reasonable boundaries. It operates a hotline to respond to fault reports. During operating hours it corrects faults within its sphere of influence and within a reasonable period, using the means reasonably available to it. If Swisscom is called on to correct a fault whose cause lies outside its fixed network, the costs may be charged to the customer.

#### 2.7 Use of third parties

At any time Swisscom can call on third parties to perform its contractual obligations.

### 3 Obligations of the customer

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#### 3.1 General

Customers are responsible for the correct, contractually defined use of their fixed-network access (particularly Section 6) and the timely payment of charges for this service (see Sections 4 and 5).

#### 3.2 Customer equipment

Customers set up and maintain at their own expense the installation between the subscriber drop and the socket. Customers are responsible for the purchase, installation, functionality and legal compliance of their PBX systems. Customers may only connect to the fixed network PBX systems which comply with telecommunications legislation.

Customers must take measures commensurate with the state of the art to prevent unauthorised access to third-party systems and the spread of computer viruses, provided this reflects the general custom or if the circumstances permit such unauthorised access by the customers' systems. If the in-house installation or a customer's PBX causes faults or damage to the installations of Swisscom or a third party, Swisscom is entitled to discontinue

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its service provision without being liable for compensation and to demand compensation for the damage.

### 3.3 Responsibility for using the access

Customers are responsible for the use of their access at all times, even by unauthorised persons. In particular, they must pay the charges incurred for the use of their access as a result of dialling paying numbers or itemised at their express wish on the telephone invoice.

### 3.4 Use of land and buildings, transmission rights

Customers must grant Swisscom, free of charge, the use of the land on which the network access is located and access to the building in order to carry out installation and maintenance work. Customers must obtain the necessary transmission rights at their own expense.

## 4 Prices

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Prices are based on the current Swisscom price list unless otherwise defined in the contract or announced immediately before use of the defined service. By taking advantage of the offered services, customers accept the currently applicable prices. If Swisscom lowers its prices, it can simultaneously adjust any discounts granted prior to the price reduction.

## 5 Invoicing and terms of payment

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### 5.1 General

Swisscom shall base billing on its records. Such records shall be considered as correct even if the customer has submitted a complaint and Swisscom's technical investigations have established no grounds for error.

The billed amount must be paid by the date indicated on the bill or within the stated payment period. Up to this date customers are entitled to lodge complaints concerning the bill in writing, giving their reasons. Failure to do so is regarded as acceptance of the bill.

If the complaints concern only a specific part of the bill, Swisscom can ask the customer to pay the uncontested part of the bill on time.

### 5.2 Payment default

If customers fail to pay the bill by the defined date or within the defined period and have lodged no written objections accompanied by their reasons, Swisscom can, after sending a reminder which the customer has ignored, discontinue services governed by all contracts with the customer (e.g. block all fixed-network connections), take other action to prevent damage, and terminate the contract with immediate effect without being liable for compensation. Swisscom can charge administrative costs for reminders. Customers bear all the costs incurred by Swiss-

com as a result of payment default. This also applies to payment by debit charge procedure. If the customer's account falls short of the debit charge procedure, Swisscom can charge a processing fee of at least CHF 30.–.

### 5.3 Prepayment, deposit as collateral

If Swisscom harbours doubts regarding the customer's ability to adhere to terms of payments or if difficulties are experienced in collecting payments due, Swisscom can request prepayment or collateral. If customers fail to provide prepayment or collateral, Swisscom can undertake the measures defined above for payment default. Collateral in the form of a cash deposit is subject to the same interest rate as savings accounts. Swisscom may debit outstanding payments from the customer's deposit.

### 5.4 Offsetting Charges

Customers may not offset amounts due from Swisscom against any charges owed by the customer.

### 5.5 Ordering or purchasing products and services

If customers order or purchase products or services over their fixed network access by dialling paying business numbers (08xx/09xx), Swisscom can charge the associated amounts to their telephone bill. These sections – particularly the section on payment default – are also applicable if Swisscom only collects payment for third parties. Customer must direct complaints concerning products and services or other complaints concerning third parties exclusively to these third parties.

## 6 Information content; legal and contractual use; misuse

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### 6.1 Information Content

Customers are responsible for the information content (voice, data in any form) which they transmit, process or make available to third parties over the Swisscom fixed network. Swisscom accepts no responsibility for this or for information which customers receive or which third parties send or make accessible over telecommunications networks.

### 6.2 Legal and contractual use

Customers are responsible for the legal and contractual use of their access. They must not misuse their access either to disturb or cause a nuisance to third parties or to impede the orderly use of another network access or for any other illegal purpose.

### 6.3 Action in the event of misuse

If justifiable evidence exists of the illegal use of an access, if such misuse is indicated by a relevant authority, or if such misuse is ascertained by a legally valid finding, Swisscom can enjoin the customer to use the access in a

legal and contractually compliant manner, discontinue the service without notice and without being liable for compensation, terminate the contract with immediate effect and without being liable for compensation, and if necessary demand compensation for damage. Swisscom can take the same action if it has grounds to believe that the customer is or will be in breach of contract or has supplied inappropriate or incomplete information when signing the contract. If Swisscom terminates the contract for one of the above reasons, the customer shall remain liable under the terms of the contract to pay beyond the date on which the contract was prematurely terminated.

## **7 Customer data**

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### **7.1 General**

Swisscom complies with current regulations governing the handling of data, in particular the Telecommunications and Data Protection Acts. Swisscom collects, stores and processes only the data it requires to fulfil its contractual obligations, to promote customer relations, to guarantee high-level service quality, to ensure the reliability of operations and infrastructure, and to compile bills.

**When the contract is drawn up and processed, customers authorise Swisscom to obtain information on themselves or pass on data on their creditworthiness, to use their data as required as a basis for designing and developing their services and for customising offerings, and to disclose their data for the same purposes to other members of the Swisscom Group. If a Swisscom service is provided in conjunction with third parties or if customers purchase third-party services over the Swisscom network, Swisscom can disclose customer data to third parties provided it is required for the provision of such services or for the collection of payment.**

Swisscom takes precautions to protect its network from unauthorised access by third parties. However, absolute protection against unauthorised access or unauthorised eavesdropping cannot be guaranteed. Swisscom cannot be held liable for such actions.

### **7.2 Calling Line ID presentation and suppression (CLIP/CLIR)**

Provided the technical equipment permits it, the number of the calling or called line is presented irrespective of whether or not it is registered in a directory. Customers can request Swisscom to suppress calling line ID permanently, free of charge, or themselves suppress the calling line ID on a call-by-call basis. For technical reasons calling line ID presentation or suppression cannot be guaranteed in all cases. For calls to emergency numbers and to Swiss-

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com lines reserved for fault reporting, calling line ID is not possible.

## **8 Intellectual property**

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For the duration of the contract, customers will have the non-transferable and non-exclusive right to use the services and products. All rights to existing intellectual property or intellectual property arising from the fulfilment of the contract with respect to Swisscom services and products shall be held by Swisscom or authorised third parties.

## **9 Network availability**

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While Swisscom offers high network availability, no guarantee can be given for the uninterrupted, fault-free functioning of its network. Swisscom reserves the right at any time to perform maintenance work on its network which may necessitate operational interruptions.

No assurance or guarantee of availability, quality, operation or support can be given for voice and data traffic on networks or accesses belonging to other telecommunications providers.

## **10 Liability of Swisscom**

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### **10.1 General provision on liability**

In the event of any breach of contract, Swisscom shall be liable for any proven damage unless Swisscom is able to prove that the damage was incurred through no fault of its own. The liability of Swisscom for wilful damage or gross negligence shall be unlimited. In the case of ordinary negligence, Swisscom shall have unlimited liability for injury to persons; for damage to property up to CHF 500,000.– for each occurrence of damage and for financial loss up to the present value but a maximum of CHF 50,000.– for each occurrence of damage. Under no circumstances shall Swisscom be liable for any consequential damage, loss of profits or data loss. Nor shall Swisscom be liable for damage arising from the illegal or non-contractual use of its services.

### **10.2 Investment protection**

Swisscom is continually optimising the services available on its fixed network and thus also protecting the investments of its customers. However, individual customers are not entitled to request a specific configuration of the fixed network or the retention of services available on the fixed network unless this is expressly laid down in the contract.

### **10.3 Force majeure**

Swisscom cannot be held liable if its service or services are temporarily interrupted, partially restricted or disabled due to force majeure. Force majeure is defined as natural

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events of a special intensity (avalanche, flood etc.), war and armed conflict, terrorism, strike, unforeseeable restrictions by authorities, power failure, virus attack etc.

### 10.4 Info services, esp. Internet access

Swisscom provides no assurance and accepts no liability with respect to the accuracy, completeness, up-to-dateness, legality and practicality or timely provision of information which is made available over the fixed network access. Swisscom does not refund charges or accept any liability whatsoever for damage caused by downloads.

If customers use their connections to purchase products or services, Swisscom is not the contractual partner for such transactions unless otherwise expressly agreed. Swisscom accepts no liability whatsoever for the services or products purchased or ordered over the fixed network access, even if Swisscom collects payment from the customer for such products or services on behalf of third parties.

### 11 Entry into force, duration and termination of the contract

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The contract is open-ended.

The access contract may be terminated by the customer as of the end of a calendar month, subject to a two-month notice period, at the earliest as of the end of the minimum contract term. In the event of premature termination, the basic monthly charges shall continue to apply up to the end of the standard contract term and shall be payable immediately.

If the notice of termination concerns only part of Swisscom's services, the contractual provisions governing other services remain applicable.

### 12 Amendments to the contract

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**Swisscom reserves the right to amend its services, prices and these General Terms and Conditions of Business at any time. Swisscom shall advise the customer of such amendments in the appropriate manner. If a minimum contract period is agreed, customers are entitled to terminate the contract prematurely and without financial consequences on the date when a price increase comes into force. Failure to give such notice of termination is regarded as an acceptance of the price increase. In the event of adjustments to sales tax rates (i.e. value added tax), Swisscom is entitled to adjust its tariffs accordingly. In this case customers have no entitlement to terminate the contract prematurely.**

### 13 Transfer of rights and obligations

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Customers are not permitted to transfer the rights and obligations arising from this contract to third parties without Swisscom's prior consent.

Swisscom is entitled to transfer the rights and obligations arising from this contract to another Swisscom Group company.

### 14 Applicable law and jurisdiction

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This contract is subject to Swiss law.

**The place of jurisdiction shall be Berne.** Compulsory places of jurisdiction shall also apply.

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