

## **1 Subject matter**

Through its Business Center, Swisscom (Switzerland) Ltd (in the following "Swisscom") provides its business customers with individual dashboard functionality. It also includes a portal which, subject to user authorizations, provides access to product-related or service-related Web applications (in the following "E-Services") and portals based on the Business Center (e.g. Employee Center). The totality of these portals, functionalities and E-Services is referred to as "Business Center" in the following.

These terms and conditions of use regulate access to and usage of the Business Center by the customer. They take precedence in this regard over any other contractual provisions between the customer and Swisscom. In all other respects, the relevant agreements between the customer and Swisscom shall apply to Swisscom products and services.

The scope of performance for each particular E-Service shall be in accordance with the provisions agreed with the customer in the respective individual/service contract, or in accordance with the specifications in the Business Center itself.

By means of an appropriate reference, the terms and conditions of use may also be declared applicable to other Swisscom online portals/services.

## **2 Access and authentication**

### **2.1 General**

The Business Center is used by the employees or other auxiliary persons of the customer. Authentication is required to access the Business Center. The user is authenticated by entering the user ID and other elements of authentication (in particular the password). Swisscom may add to or change the authentication procedure at any time. In particular, additional state-of-the-art levels of security such as cross-off lists, Secure-ID cards, certificates, etc. or other methods may be introduced.

By accessing the system for the first time, the customer accepts these terms and conditions of use for the Business Center.

Anyone who is authenticated to Swisscom shall be regarded as entitled to use the Business Center. Irrespective of the customer's internal regulations or circumstances and any entries in the commercial register, Swisscom may assume, without further investigation of the authorization, that the user who is authenticated to Swisscom is authorized to act on behalf of the customer (apparent authority). The customer acknowledges unconditionally that all information, orders, notifications, etc. that he sends to Swisscom via the Business Center shall be regarded as having been written and authorized by him or by authorized users.

For certain E-Services, individual approval procedures agreed with the customer are also possible.

### **2.2 Master User**

The customer shall designate a person who administers the Business Center on the customer side (Master User). The Master User is responsible for the administration and assignment of authorizations, including administration rights to other persons (in the following "Authorized Persons"). The Master User defines the framework in which these Authorized Persons are authorized to use the functionalities available in the Business Center. Administration is carried out via the Business Center's user administration.

By separate agreement, use of the Business Center (in particular for the Employee Center) and certain E-Services by the customer's users may be enabled automatically via the customer's Active Directory.

All persons of whom Swisscom is notified in this way shall be regarded by Swisscom as authorized until times as they are blocked by the Master User or, in accordance with 2.3, by Swisscom. This shall apply irrespective of the customer's internal regulations or circumstances and entries in the commercial register to the contrary.

### **2.3 Provision for blocking**

Swisscom reserves the right to block access to the Business Center by the customer or individual users, or to one or more E-Services, at any time without notice and without giving reasons, temporarily or permanently, without entitlement to compensation, provided this appears appropriate based on objective grounds. Swisscom will immediately inform the customer about any block.

Through the Master User, the customer can independently block access to the Business Center by its users at any time.

The customer can make written arrangements to block access by the Master User. The block will become effective 24 hours after Swisscom receives the request at the earliest. The customer can have the block lifted again in writing.

## **3 Obligations on the part of the customer**

### **3.1 Technical requirements**

The customer is responsible for providing the technical requirements (including hardware and software) for accessing the Business Center. A terminal with Internet connection and an up-to-date Internet browser are required. The use of "cookies" must be allowed. More system requirements may be communicated to the customer in the Business Center.

The customer acknowledges that the technical requirements may change at any time.

### 3.2 Duty of care

The customer is responsible to Swisscom for each usage of his access by himself, his users and third parties, and for the content of the information that he, his users and third parties send via Swisscom or have processed by Swisscom.

The customer is obliged to ensure that the authentication elements are kept secret and are protected against misuse by unauthorized persons. In particular, it is recommended that the password be changed without delay after the first time it is communicated. After it is changed, it must not be recorded or stored unprotected. The customer shall bear all the risks arising from disclosure of his authentication elements, unless he can prove that Swisscom or its auxiliary persons or third parties are at fault.

In the event of loss, misuse or suspected misuse of an authentication element, the user in question must firstly contact the Master User. The Master User must take the necessary measures and change the relevant authentication elements without delay. In exceptional cases, the loss Swisscom may be notified of the loss in writing. In these cases, Swisscom may set up a block in accordance with section 2.3 until the customer revokes it in writing.

### 4 Security

Swisscom uses appropriate and state-of-the-art security methods for the development and operation of the Business Center. The customer accepts that, despite reasonable efforts on the part of Swisscom, application of the required care and the use of modern techniques and security standards, it is not possible to guarantee absolute security of the systems and procedures used. Against this background, Swisscom refers in particular to the following risks:

When the Business Center is being used, there is the risk that third parties may gain access to the customer's computers without being noticed.

Inadequate knowledge of the system and a lack of security precautions at the customer's terminals may facilitate such access by third parties. It is the responsibility of the customer to be informed in detail and at all times about the security precautions that are required.

There is furthermore the risk that, when the Internet is being used, viruses, Trojans, etc. may be installed on terminals without being noticed. Swisscom recommends use of state-of-the-art technical tools (firewalls, virus scanners, etc.) in this regard. The customer is responsible for taking appropriate measures to protect against such risks.

### 5 Liability

For Swisscom's provision of services within the scope of the individual products and services themselves, any

contractual liability provisions agreed between the customer and Swisscom shall apply in this respect.

If Swisscom breaches its obligations under these terms and conditions of use, it shall be liable for the proven damage, unless it can prove that it is not at fault. Swisscom shall have unlimited liability for damage caused through intentional acts or gross negligence. In the case of slight negligence, Swisscom shall have unlimited liability for personal injury; in the case of damage to property, Swisscom shall be liable up to the sum of CHF 500,000 per damaging event and calendar year, and for financial loss up to the sum of CHF 50,000 per damage event and calendar year. Swisscom shall not be liable for indirect and consequential damage, especially damage due to lost profit, loss of data, reputation damage or third-party claims, under any circumstances.

### 6 Availability and warranty

In relation to Swisscom's provision of services within the scope of the individual products and services themselves, any contractual warranty provisions agreed between the customer and Swisscom shall apply in this respect.

The Business Center serves primarily as a customer interface. Swisscom does not provide any warranty for a specific availability (in particular for continuous and uninterrupted access to the Business Center) and for absence of faults in the Business Center. In the event of a full or partial outage of the Business Center, the customer can generally resort to other customer channels (Service Desk, Account/Service Manager etc.). Any outage of the Business Center does not entitle the customer to claim compensation of any kind (in particular claims for damages, penalties and/or price reductions). This shall be without prejudice to Swisscom's liability for intentional or grossly negligent damage.

Swisscom is entitled to suspend the Business Center at its own discretion, at any time and without compensation, if this appears necessary for important reasons, e.g. in the event of faults, the risk of misuse, maintenance requirements, technical development, etc. Foreseeable interruptions will be announced to the customer in advance, if possible.

### 7 Data protection

Swisscom handles data exchanged via the Business Center in compliance with applicable laws, especially data protection and telecommunications laws.

The customer may possibly be able to view its users' personal data through the Business Center. The customer bears sole responsibility for use of this data in compliance with legislation, the recommendations of the Federal Data Protection and Information Commissioner (EDOEB) and the customer's internal directives.

Within the scope of the services it provides, Swisscom also collects, stores and processes personal data about the Business Center's users. Such data is disclosed to Swisscom during registration, when placing an order or in forms. It also receives information on the usage of the services and functions in the Business Center, such as the date/time, duration and frequency of usage, the name of the downloaded page, the IP address and operating system of the user's computer or mobile communication terminal, shopping cart content, clicks on content as well as the nature and manner of using the services.

This data is processed by Swisscom for the purpose of ensuring the operation and development of the Business Center as well as the functions and services available in the Business Center. Usage data is analysed and evaluated to make the Business Center more user-friendly and more effective, to cultivate customer relationships and to provide the customer with relevant recommendations and offers, or to display them in the Business Center.

For providing and operating the Business Center, Swisscom may engage auxiliary persons and third parties (in particular sub-contractors) in Switzerland and abroad, and/or employees of these auxiliary persons and third parties. Some of the data exchanged via the Business Center may be viewed by these companies and processed for the purposes of the cooperation. When data is transferred to a third party, especially abroad, Swisscom also complies with the relevant provisions of Swiss data protection legislation.

The customer acknowledges that, when the Business Center is accessed via the Internet, data (including encrypted data) is transmitted across borders, regularly and in an uncontrolled manner. This also applies if the data is accessed from Switzerland.

The customer undertakes not to deposit any data in the Business Center if accessing such data from outside Switzerland is not permitted.

The customer acknowledges and accepts that Swisscom collects, stores and processes log files. These files are required for providing the services and for processing and maintaining the customer relationship, in particular to guarantee a high level of service quality.

Swisscom uses cookies, tracking and analysis tools from third-party providers in the Business Center. Data collected through the use of these technologies and tools is sent to the third-party servers. Depending on the provider, these servers may also be located outside Switzerland. The IP addresses are shortened before the data is sent in order to prevent identification of individual terminals.

The cookies, tracking and analysis tools that are used may be deleted or blocked through the settings in the terminal's browser. This may mean, however, that

certain information is not displayed or functions may not be used, or may not work properly.

There is a link on the Business Center's homepage to a list of tools and technologies used, with information on the providers, the purpose of the respective tools and more ways to prevent their use.

## **8 Intellectual property rights**

All rights to the elements of the Business Center (copyright, patent rights, design rights, etc.) remain with Swisscom or the entitled third parties.

The elements may only be used by the customer within the scope of using the Business Center. Accessing the Business Center and using it does not grant any rights whatsoever to any more extensive use of the elements.

## **9 Miscellaneous**

The customer acknowledges that, in certain circumstances, usage of the Business Center from outside Switzerland may infringe rules of foreign law. The customer is responsible for ensuring that he obtains the relevant information with due care. Swisscom declines any liability in this respect. The customer furthermore acknowledges that there may be import and export restrictions on encryption algorithms. He shall observe them accordingly.

The information shown in the Business Center does not represent a binding offer, unless it is expressly designated as a binding offer.

Swisscom reserves the right to amend these terms and conditions of use at any time and to publish them in the Business Center. They shall be regarded as approved the next time the user makes use of the Business Center.

The contractual relationship between the parties, including usage of the Business Center and the E-Services, shall be exclusively subject to Swiss law. The Parties declare that the conflict of law rules of private international law and the United Nations Convention on the International Sale of Goods of 11 April 1980 shall not apply.

The place of jurisdiction for any and all disputes arising from or in connection with this contractual relationship between the parties is agreed as exclusively Zurich. The filing of a third-party action by one party against the other at the court dealing with the main action remains reserved, although only if this court dealing with the main action is located in Switzerland.