

A: Definitions

1 Scope of application

These Terms and Conditions of Use apply to any Swisscom services for which the applicable contract documents (including but not limited to Agreements, Annexes or Service Descriptions) provide that these Terms and Conditions shall apply.

2 Definitions

Connection

The access point necessary for the purpose of transferring information via Swisscom networks.

Acceptance of Fault Reports

Faults may be reported to the designated Service Desk number 24 hours a day. Customer-specific Support Times and Response Times for faults are defined in the Agreement and the Annexes thereto for each component.

Coordinated Maintenance Window (CMW)

The Coordinated Maintenance Window is the time period during which Swisscom carries out maintenance work on the network platform. As a general rule, a Coordinated Maintenance Window shall be the period between 2:00 a.m. and 6:00 a.m. on Sundays. Services may (but need not necessarily) be affected during such maintenance work. The Customer shall be given advance notice of any planned interruptions within the Coordinated Maintenance Window which are expected to last longer than the times specified for the services in question (3 to 15 minutes), as well as notice of any special Maintenance Windows. No Trouble Tickets will be recorded in the event of interruptions within the Coordinated Maintenance Windows. Swisscom reserves the right to change the Coordinated Maintenance Window at any time subject to advance notice.

CPE / Customer Premises Equipment

See "Service Elements"

Managed Objects (MOs)

Managed Objects are the Service Elements operated by Swisscom. The Managed Objects pertaining to the individual services are defined in service-specific documents.

Managed Object Classes

MOs are divided into classes featuring different availability levels and related guarantees.

Ready-For-Service Date (RFS)

The RFS Date is the date, as confirmed by Swisscom, on which the contractually agreed service is ready for operation.

Remote Access

Remote Access to the Customer's components (hardware and/or software) is required for specific services and

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installations. Remote Access enables Swisscom to localise faults and initiate appropriate measures.

Access to components (hardware and/or software) shall be provided over a suitable network.

Swisscom shall lease to the Customer such equipment as may be required to facilitate access to a suitable network (router). If the router is not permanently activated, the Customer shall enable Remote Access for Swisscom immediately upon opening the Trouble Ticket and ensure that access is enabled at least until such time as the Trouble Ticket is closed by Swisscom.

Remote Diagnosis

Remote Diagnosis is aimed at localising faults pursuant to the Maintenance Contract. Remote Diagnosis may either be performed by telephone by asking questions and eliciting responses from the Customer or by Remote Access. As a general rule, Remote Diagnosis shall take a maximum of one hour. The fault repair process shall be initiated once the fault has been detected.

Response Times

The Response Times that are defined in the Contract for the Customer specifies the time the Customer will have to wait following Remote Diagnosis before on-site technical intervention or remote intervention commences. Response Times shall apply during the contractually agreed Support Times.

Service Access Point (SAP)

The SAP is the logical and/or physical interface between the Customer's areas of responsibility and those of Swisscom. The contractually agreed services of Swisscom are made available to the Customer at the SAP.

Service Elements

Service Elements are single physical (hardware) or logical components (software) or combinations thereof, which are the property of Swisscom or any of its subcontractors.

Standby Times

See "Support Times".

Support

Support means the service-specific support services provided by Swisscom during the Support Times.

Support Times

Faults shall be rectified as part of the basic service during the defined Support Times (Support Level). Times outside these Support Times (Support Level) are deemed to be "suspended time".

Trouble Ticket

A fault report that has been duly entered into Swisscom's systems.

B: Voice and data services**3 Requirements****3.1 General**

The Customer is responsible, in particular, for ensuring that his connection is used in accordance with the law and the provisions of the Contract.

He shall not use his connection to disturb or harass third parties, to hinder proper use of any other network connection or for any other unlawful purpose. Specifically, such unlawful purposes shall include the transmission of or provision of access to illegal content as well as advertising calls or communications where the caller or sender knows or should know that the recipient does not wish to receive advertising calls or communications.

3.2 Content of the information

The Customer shall be responsible for the content of all information (voice, data in any form whatsoever) transmitted or processed on his behalf by Swisscom or made available by him to third parties. Swisscom accepts no responsibility for this or for information received by the Customer via the networks or transmitted or made available by third parties via telecommunications networks.

3.3 Equipment to be provided by the Customer

The Customer is responsible for the acquisition, set-up, functionality and legal conformity of his own terminal devices as well as for in-house installations

The Customer shall take measures to prevent unauthorised intrusions into third-party systems, specifically to prevent the distribution of harmful software as well as the sending of unsolicited bulk e-mail.

3.4 Responsibility for use of the connection

The Customer shall be responsible for any and all use of his connection, including by third parties. The Customer shall be obliged to pay all amounts invoiced as a result of the use of his connection, in particular those for goods or services purchased or ordered via his connection and invoiced by Swisscom.

4 Swisscom product features**4.1 General**

Swisscom shall enable the Customer to make calls and/or exchange data via the networks of Swisscom and providers with which Swisscom has concluded a corresponding interconnection agreement Through the use of suitable communications equipment (mobile phone, PDA, modem, data terminal, etc., collectively referred to as "terminal devices"), the Customer shall also have access to information retrieval systems, the Internet and associated services.

4.2 Blocking sets

The Customer may use the hotline to have value-added services offered via 090x numbers or SMS/MMS short numbers and other value-added services offered via the Swisscom network and charged on their Swisscom bill blocked. The blocking may extend to all corresponding value-added services or may comprise adult entertainment only.

4.3 Change of network and provider abroad

In case of cross-border use, the Customer waives the right to receive automatic notification of roaming prices to user devices pursuant to Art 10a(2) FDV (Federal Ordinance on Telecommunications Services). On activation of individual messages, users shall be notified exclusively of the roaming prices for standard subscribers as a result of the use of third-party network services. These will be used as a basis for the calculation of individual tariffs. The service can be switched on and off for all Swisscom connections via the relevant Swiss customer support service. The roaming prices indicated in the automatic notification pursuant to Art 10a, Para. 2 FDV shall be for information purposes only and shall not be binding on either party.

4.4 Mobile network coverage

Swisscom offers the Customer a high degree of mobile coverage via its mobile network in Switzerland. Coverage abroad depends on both the network and the technical and operational capabilities of the roaming partner. More details on current and intended future mobile coverage shall be provided by Swisscom without obligation. Gaps in coverage may nevertheless be encountered even in areas designated as covered, particularly inside buildings and motor vehicles.

5 Prices

Swisscom may announce prices for specific services (e.g. WAP services) immediately prior to use of the service or it may list them on its website (e.g. roaming prices).

6 Measures against misuse and faults

6.1 Where there is reason to suspect unlawful use of the network connection, where such use is indicated by the responsible authority or established at law, Swisscom shall be entitled to enjoin the Customer to ensure lawful use in accordance with the Contract, to withdraw its service provision without prior notification or compensation, to terminate the Contract without notice or compensation and to claim damages where appropriate.

Swisscom shall be entitled to take these same measures where it has reason to believe that the Customer is acting or set to act in breach of contract or has provided false or incomplete information when concluding the Contract or if damage or serious disruption (to the systems belonging

to Swisscom or a third party, for example) could be caused by one of the Customer's terminal devices or connections. Should Swisscom terminate the Contract for one of the aforementioned reasons, the Customer shall be liable to issue payment pursuant to the contractual provisions on premature contract termination.

7 Telephone number; SIM card

There is no entitlement to allocation or retention of a specific telephone number. Swisscom has the right to cancel or change any number or other address element it has assigned (such as IP addresses) without compensation if required for operational or technical reasons or as a result of government regulations. With the proviso that the number may be transferred to another telecommunications provider, the number shall revert to Swisscom without compensation upon termination of the Contract or cancellation of the connection.

Defective SIM cards shall be replaced by Swisscom at no charge for a period of one year. If required for technical or operational reasons, Swisscom has the right to replace the SIM card at any time. Furthermore, Swisscom is authorised to load data or software onto the Customer's SIM card at any time for the purpose of optimising or expanding its services.

8 Directory

At the Customer's request, Swisscom or a third party acting on its behalf shall enter the Customer's information in a directory. There is no obligation to verify the accuracy of the information provided by the Customer for the entry. The Customer may request to have a notation included in the directory indicating that he does not wish to receive any advertising calls or communications and that his personal data must not be passed on for commercial purposes. Notwithstanding the above, advertising calls or communications (such as SMSs) to the Customer from a third party cannot be ruled out. In this case, responsibility shall lie with the caller or sender of the communication.

9 Number display and suppression

In principle, the caller's number used for transmission shall be displayed to the called party regardless of whether it is registered in a directory or not. The Customer may request that Swisscom suppress this number display permanently or the Customer himself may suppress it on a call-by-call basis. For technical reasons, it cannot be guaranteed that the caller number will be displayed or suppressed in certain circumstances, in particular when calls are made from or to a third-party network and in the case of SMS. For calls to emergency-service numbers or to Swisscom help lines, number display cannot be suppressed. It is also possible that, through the use of additional services, a number other than that of the line

actually used will be displayed (such as the number of the building's switchboard).

10 User restrictions

Swisscom provides no assurances or guarantees of any kind with regard to the availability, quality, operation or support of voice or data traffic on third-party networks or with third-party connections or for Internet access via a mobile connection.

The electromagnetic fields generated by the Swisscom transmission and receiver stations or by terminal devices may interfere with the functioning of other equipment such as hearing aids, pacemakers and household appliances. To prevent such interference, the manufacturers' safety measures should be observed and adequate distance maintained. The Customer is responsible for obtaining information on prohibited and restricted use (for example when driving or during air travel) and for obeying such rules.

11 Maintenance

Swisscom is responsible for the maintenance of its networks. Faults can be reported to its hotline. Swisscom shall remedy any faults occurring within its sphere of influence as quickly as possible.

C: Implementation

12 Process services Implementation

12.1 The process services Implementation (realisation) are defined in the service-specific documents.

12.2 Deadlines for delivery and start-up shall be interpreted as target deadlines and are subject to change, including at short notice.

12.3 If it is not possible to meet an agreed Ready-For-Service Date through no fault of the parties, Swisscom shall postpone the Ready-For-Service Date and the commencement date of the minimum contract term commensurately.

12.4 If it is not possible to meet an agreed Ready-For-Service Date or the Ready-For-Service Date is delayed due to any circumstance for which the Customer is responsible,

- the minimum contract term and the Customer's payment obligation shall commence on the agreed Ready-For-Service Date, and
- the Customer shall pay any additional costs incurred by Swisscom as a result of the delay, and
- Swisscom may terminate the Contract at any time prior to the Ready-For-Service Date with immediate effect. Swiss statutory provisions shall also apply.

D: Maintenance and managed services

13 Intervention/maintenance process services

13.1 The general "Intervention" and "Maintenance" process services described in this section shall only apply if the Contract or any Annex thereto pertaining to the service in question expressly provides for such "Intervention" or "Maintenance" services.

13.2 Basic fault repair service

13.2.1 Faults shall be repaired during the defined Support Times for any equipment covered by the Intervention/ Maintenance service as stipulated in the Contract. If the repair of a fault extends beyond the Support Times, work may be suspended and resumed during the Support Times on the next working day.

13.2.2 The repair of faults includes:

- The opening of a Trouble Ticket by Swisscom. This may occur
 - once the management system has identified any fault or failure during active component monitoring. A corresponding report shall be submitted to the Customer's designated point of contact.
 - as soon as the Customer has reported a fault to the Service Desk in relation to components that are not actively monitored. Any report submitted by the Customer must include a precise description of the fault and any information that may be required in order to rectify the fault (e.g. location, components, component description, etc.)
- Localisation of faults through Remote Diagnosis.
- A feedback report sent to the Customer on completion of Remote Diagnosis specifying any further action required to rectify the fault.
- Any action required to eliminate the fault. Depending on the fault repair option agreed (see below) and at Swisscom's discretion, such action shall be carried out in place of or in combination with Remote Access, the repair or replacement of defective system parts or the provision of a workaround solution.

13.2.3 The basic fault repair service shall not include, for example:

- any work performed by Swisscom for the purpose of eliminating faults, which have been caused by the Customer (e.g. due to incorrect use), third parties or equipment not covered by any Maintenance Contract with Swisscom
- the initial population/recovery of Customer data
- the initial set-up of entire software environments (e.g. a CallManager solution) and input of backup data provided by the Customer (e.g. configurations)

13.3 Swisscom shall determine on a case-by-case basis whether the fault can be localised and rectified by Remote Access or on site.

13.4 The ownership of any replaced defective hardware components shall pass to Swisscom upon replacement. If such hardware components are not replaced by Swisscom on site, the Customer shall return the replaced (defective) hardware components to the address provided to it by Swisscom within one calendar week.

13.5 Swisscom shall ensure throughout the term of the Contract, and subject to manufacturer availability, that replacement parts are available for the components covered by the Maintenance Contract. Swisscom reserves the right to replace any defective items with hardware and/or software that offers comparable or improved functionality.

13.6 Where components and products are described in the Annex to the Contract as having an end-of-life date, Swisscom only agrees to provide Support up to this date.

13.7 Option: On-site fault repair

13.7.1 Where this fault repair option has been agreed, the following service options may be specified in addition to the basic service:

13.7.2 Technicians and materials service option:

- Next working day: replacement supplies – and on-site intervention if necessary – will be provided during the agreed Support Times on the next working day.
- Within 4 hours of completing Remote Diagnosis: replacement supplies and on-site intervention if necessary will be provided within 4 hours of Remote Diagnosis. The service may be combined with all Support Times.
- Within 2 hours of completing Remote Diagnosis: replacement supplies and on-site intervention if necessary will be provided within 2 hours of Remote Diagnosis. The service may be combined with all Support Times.

13.7.3 The service options to be provided within a 2 or 4-hour timeframe depend on the location of the Service Elements and these timeframes may not apply throughout Switzerland.

13.8 Option: Replacement supplies by courier service

13.8.1 Where stipulated in the Contract, this fault repair option shall include, in addition to the basic service:

Delivery of replacement hardware components (devices or device parts) by courier (or equivalent dispatch service) during the Support Times within 6 hours of opening the Trouble Ticket.

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13.8.2 The defective hardware components are replaced with the new components by the Customer on site.

13.9 Option: Postal maintenance

13.9.1 Where stipulated in the Contract, this fault repair option shall include, in addition to the basic service:

The dispatch of components to replace defective components by post within one working day (Monday to Friday, excluding public holidays) of opening a Trouble Ticket at the latest.

13.9.2 The defective hardware components are replaced with the new components by the Customer on site.

E: General provisions

14 Service adjustments

14.1 In the course of improving its services, Swisscom shall be entitled to adjust its services at any time, provided the use of the service in question is not unreasonably impaired.

14.2 Any adjustments to the service or technical base may require adjustments to the Customer's installations and equipment. On no account shall the Customer be entitled to any compensation in relation to such adjustments and Swisscom disclaims all liability in respect thereof.

14.3 Any adjustments to services shall take effect on the Ready-For-Service Date confirmed by Swisscom.

14.4 If Swisscom terminates the Contract for a particular service during the minimum contract term and migration to an equivalent service is not possible, it shall compensate the Customer by reimbursing half the charges paid for any ongoing services received in relation to the services terminated over the past contract year.

15 General provisions

15.1 Installations, locations

15.1.1 The Customer shall take such measures and precautions within its control as may be required in order to protect the property of Swisscom or its subcontractors, and undertakes not to remove any components relating to the services from the specific location at which they have been installed. Any moving of such equipment to another location shall require the prior written consent of Swisscom. Any expenses incurred in connection with the transfer of components without Swisscom's prior consent shall be charged to the Customer.

15.1.2 The Customer may not carry out any modifications, repairs, maintenance work or other interventions to or on components and/or configuration

data for the applicable services. In addition, the Customer may only use components for the agreed purposes.

15.2 Copyright royalties

The Customer agrees to only use protected content belonging to third parties in a lawful manner. He/she shall be responsible for procuring all rights required to import protected music productions (or parts thereof).

15.3 Elimination of risks and external influences

15.3.1 Swisscom shall be entitled to take any measures that may be required in order to avert or eliminate any risk, danger or disruption caused by the Customer or any third party, and to require the Customer, at its own expense, to implement such measures as may be necessary at its location.

15.3.2 The Customer shall be responsible for preventing unauthorised access to components and information (system access information, passwords, encryption and security devices, etc.). The Customer shall grant access rights and ensure that appropriate security measures are in place. Furthermore, the Customer shall be obliged to treat any security elements and information as confidential and to prevent their misuse by unauthorised persons.

15.3.3 The Customer shall notify Swisscom immediately in the event of any loss or disclosure of security elements, any misuse of such elements which is identified by the Customer, or any other unforeseen occurrence that may affect Swisscom.

15.3.4 Swisscom reserves the right to interrupt the transmission of data at any time and notify the Customer thereof in writing immediately upon becoming aware of any security risks. In such event, the Customer shall decide when data transmission is to be resumed. Swisscom reserves the right to introduce other security measures or different forms of authentication. No liability shall accrue to Swisscom in respect of the use of digital certificates whether created by the Customer or any third party.

15.3.5 The contact persons authorised by the Customer to submit orders, terminations, modifications (moves, adds, changes), fault reports and operational information shall be designated by the Customer and recorded in cooperation with Swisscom. The Customer shall notify Swisscom of any changes of contact person in writing or in such other form as Swisscom may determine.

15.3.6 Any persons authorised to report faults may also arrange for assistance to be provided outside the agreed Support Times by the contact persons designated by Swisscom, subject to payment of a fee.

15.3.7 The repair of faults may be suspended during any period in which Swisscom is unable to reach the contact person designated by the Customer.

15.4 Use by third parties

The Customer shall be liable in respect of the use of the services by third parties and agrees to pay Swisscom for any such use. Swisscom accepts no liability whatsoever in respect of such use.

16 Invoicing and terms of payment

16.1 General

Swisscom shall prepare the bill based on its data records for the connections. These records shall be deemed correct even if the Customer disputes the bill, provided that technical investigations by Swisscom do not reveal any concrete evidence of any errors.

In the case of roaming charges, billing is often delayed.

16.2 The obligation to pay for recurring or ongoing services shall commence on the date on which the service is provided by Swisscom.

16.3 If the Customer is only able to use some of the functions initially, Swisscom shall charge a reduced fee until all the functions become available.

16.4 Charges for "on-demand" services shall be based on the records of Swisscom and those of other network operators. Where the charges are disputed by the Customer, such records shall be deemed correct unless investigations by Swisscom or the relevant network operator reveal evidence of errors. In the event that a dispute concerns only part of a bill, the Customer shall be obliged to pay the undisputed portion of the bill to Swisscom by the specified due date.

16.5 In the event that the Customer fails to settle any payment when due, Swisscom may suspend the contractual service if the bill still remains unpaid after a single notice has been sent demanding payment of the amount due.

16.6 If the Customer orders or purchases goods or services via his connection, Swisscom may charge the respective amounts to the telephone bill. Swisscom shall be authorised to pass on to third parties any data that is required by the latter in order to substantiate their claims against the Customer.

17 Disclaimer of warranties

17.1 The Customer acknowledges and agrees that despite every effort by Swisscom and the deployment of the most up-to-date technology and security standards, Swisscom makes no warranty with respect to absolute security or error-free use. All risks associated with such use shall be borne by the Customer unless Swisscom has agreed under the Contract to provide specific services in relation thereto.

17.2 Swisscom makes no warranty in respect of any services, any part of a service or any components not provided and/or supplied by Swisscom, and accepts no liability in respect of any loss or interruption of service or performance which may arise as a result.

17.3 Swisscom shall assume no liability and provide no guarantee for goods or services purchased or ordered via the connection, even if Swisscom collects third-party claims against the Customer.

17.4 Swisscom offers no assurances and assumes no liability in respect of the accuracy, completeness, topicality, legality, usefulness, availability or timely supply of information accessible via the connection. Swisscom shall not reimburse any fees paid for downloads or accept any liability whatsoever for damages arising from downloads.

17.5 Where the Customer uses his connection to purchase goods or services from third parties, Swisscom is not the contracting partner unless expressly agreed otherwise.