

# General Terms and Conditions for Services of Swisscom

## 1. General

The General Terms and Conditions for Services of Swisscom (Switzerland) Ltd («GTCs») apply provided no deviating regulations are in place for a particular service or a particular group of customers.

## 2. Performances by Swisscom

### General

Information about the scope and specific terms of use for individual services (basic and supplementary services) of Swisscom (Switzerland) Ltd («Swisscom») is provided by the latest brochures, Terms and Conditions of offer and the Swisscom website respectively and the M-Budget website for M-Budget services, the Wingo website for Wingo services and the Coop Mobile website for Coop Mobile services. Swisscom may also draw on third parties for the provision of its services.

The customer has no right to a particular configuration of Swisscom's infrastructure or to the perpetuation of services accessible through this infrastructure. **Swisscom is entitled to cease the provision of a service at any time without compensation, subject to the provision of a suitable notice period.**

### Maintenance

Swisscom is responsible for the maintenance of its infrastructure. During operating hours, Swisscom rectifies faults which lie within its sphere of influence within a reasonable time period. If Swisscom is called upon to repair a fault that is not caused by Swisscom's infrastructure, the costs can be invoiced to the customer. Swisscom is entitled to interrupt or limit its operation for purposes of correcting faults, performing maintenance work, introducing new technologies, etc.

### 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 data provided by the customers for the entry.

### Advertising

Anyone not wishing to receive advertising communications can ask for their address to be blocked in their entry by marking it with an asterisk (\*). The address will only be passed on to third parties that create directories. Other companies within the Swisscom Group, as well as providers of services that the customer procures via the network, are not considered third parties. Even if an address has been blocked, there is no guarantee that the customer will not receive advertising calls or advertising communications. In this case, responsibility shall lie with the caller or sender of the communication.

### Blocking sets

By calling the hotline or online in the Customer Center, the customer can block value added services which are consumed via the Swisscom network and are charged on the Swisscom invoice (especially 090x numbers, in mobile telephony also SMS short numbers). The blocking can cover all relevant value added services or be limited to individual categories (e.g. adult entertainment, 0900 or 0901 numbers).

## 3. Customer obligations

### Payment

The customer is responsible for timely payment of the procured services.

### Passwords, etc.

It is the customer's responsibility to keep passwords, identification codes, login data, PIN and PUK codes, etc., safe and to ensure that these are not accessible to others.

### Customer information and e-mail address

The Customer shall be obliged to provide Swisscom with its current contract address, billing address and e-mail address. Swisscom may legally send Customers information relevant to the contract (e.g. invoices, reminders, product alterations, changes to the GTCs, operational information such as details of maintenance work, etc.) by post or to the last e-mail address provided by the Customer or via other electronic communications channels. The use of customer information and customer e-mail addresses for marketing purposes is governed in our General Privacy Policy.

### Legally and contractually compliant use

For residential customers, services are exclusively for normal private customer use, and for business customers, they are intended purely for normal business customer use. They may only be used for special applications or for the provision of telecommunications services with Swisscom's written consent.

The Customer shall be responsible for ensuring that the services procured from Swisscom are used in accordance with the law and with the provisions of the contract.

In particular the following are deemed to be illegal or contrary to contract:

- > dishonest mass advertising (spam)
- > Harassment or disturbance of third parties
- > Prevention of a third party from using telecommunications services
- > Hacking (penetration tests, etc.), spying on other Internet users or their data and fraudulent attacks (phishing)
- > Damage to or endangerment of the telecommunications infrastructure or the equipment of a third party through harmful software
- > Transmission or access provision of illegal contents

If there are signs of illegal use or use contrary to the contract, it is the customer's responsibility to inform Swisscom of such use (on Swisscom's request).

### Responsibility for content

The customer is responsible for the content of information (language, data in any form) transmitted or processed on its behalf by Swisscom or made available by the customer to third parties.

### Responsibility for use of access

**The customer is responsible for all use of its access, including use by third parties.**

In particular, the Customer shall be obliged to pay all amounts invoiced as a result of the use of the services procured from Swisscom. This also applies to goods or services that have been obtained or ordered using the customer's access.

If the customer makes the services procured from Swisscom available to minors, it is responsible for complying with the youth protection regulations. Swisscom provides blocking options where technically feasible.

## 4. Customer equipment / Devices

### General

The customer shall provide, maintain and remove (at the end of the supply period) the necessary infrastructure (devices, hardware, software etc.) on time and at its own expense. The use of the services requires the application of suitable devices – some of which are predetermined by Swisscom – by the customer. The customer has sole responsibility for the purchase, installation, serviceability and legal-conformity of the infrastructure. Swisscom provides the customer with no investment protection.

### Remote maintenance

**Swisscom is entitled to access the infrastructure used to obtain the service via the remote network, for the purpose of configuration, maintenance or the optimisation / expansion of its services, and to view, modify, update or to delete technical data and software.** Within the scope of the remote maintenance Swisscom shall be able to view the files of the customer, which are directly connected to the configuration of the device and services.

Swisscom is not liable for any damage to the infrastructure of the customer which occurs after the remote maintenance, provided this is not demonstrably the fault of the remote maintenance by Swisscom.

### Safety measures

The customer shall protect its infrastructure and data from unauthorised access by third parties. It shall take measures – in accordance with the latest technology – in order to prevent the infrastructure from being used for the distribution of illegal or other damaging content (especially spam, phishing mails/SMS), fraudulent internet sites (e.g. false login sites), harmful software (viruses, trojan horses, worms etc.). If a device of the customer damages or endangers a service, a third party or the equipment of Swisscom or a third party, or if the customer uses devices which are not permitted, Swisscom is entitled to cease the supply of their service without prior notice and without compensation, to disconnect the customer's device from the telecommunication network and claim compensation for damages.

### Devices belonging to Swisscom

If Swisscom provides a device on a rental/loan-basis, then it remains the property of Swisscom for the whole duration of supply. The establishment of rights of lien or retention over the hardware for the benefit of third parties is expressly waived. In case of attachment, retention, confiscation or appropriation of assets, the customer is obliged to inform Swisscom immediately and to inform the responsible debt enforcement office or bankruptcy authority that the items are the property of Swisscom. At the end of the supply period the customer is obliged to send the device back to Swisscom undamaged and within a deadline set by Swisscom. Should the customer fail to meet this obligation, Swisscom shall be entitled to charge the customer the value of the not returned device.

## 5. Prices

### General

Swisscom's current prices and fees (e.g. administrative and service fees) as published at [www.swisscom.ch](http://www.swisscom.ch), at [shop.m-budget.migros.ch/](http://shop.m-budget.migros.ch/) for M-Budget services, at [www.wingo.ch](http://www.wingo.ch) for Wingo services and at [www.coopmobile.ch](http://www.coopmobile.ch) for Coop Mobile services are authoritative. Swisscom may announce prices and fees immediately prior to the use of a particular service.

### Beginning of payment obligation; Blocking

The payment term normally commences once the service is activated. The customer shall be invoiced for the contractually stipulated costs even in the event that a service is blocked. Unless otherwise stipulated by legal telecommunications provisions, Swisscom shall charge a blocking fee for blocking and unblocking.

## 6. Misuse

If use deviates considerably from normal use (see Section 3), or if there are signs of illegal behaviour or behaviour contrary to the contract, Swisscom can join the customer to ensure legally and contractually compliant use, it can modify, restrict or suspend the customer's service provision without prior notification and without compensation, it can terminate the contract without notice or compensation and, if applicable, it can claim compensation from damages and the release from claims by third parties. The same applies if the details provided by the customer are inapplicable or incomplete upon conclusion of the contract or ordering.

## 7. Invoicing and terms of payment

### General

**Swisscom's invoices based on its own records.** Swisscom may combine different Customer invoices and collect minor billing amounts together with a subsequent bill. The invoice amount must be paid by the due date indicated on the invoice. If no such date is indicated, the due date is considered to be the invoice date plus 30 days. **Customers must lodge any objections to the usage fees within a period of six months following the disputed usage.**

After this period they shall be regarded as accepted by the customer. If the objections only concern part of the invoice, then Swisscom can demand that the undisputed portion be paid by the specified due date. At the end of the contract, all outstanding amounts shall become due for payment (i.e. including the fees for the residual period up to expiry of any ongoing minimum service or extension period).

Each party shall be entitled to offset undisputed counterclaims.

### Default of payment

If, by the due date, the customer has neither paid the invoice in full nor made written and justified objections to it, the customer will immediately be considered in default of payment, and Swisscom can, insofar as the law permits, discontinue service provision of all services, take other measures to prevent accumulating damages and/or terminate the contract without any notice or compensation. The customer shall bear all costs incurred by Swisscom because of delayed payment. In particular, the customer will owe Swisscom default interest of 5% and a reminder fee of CHF 30.00 for each reminder.

Swisscom may bring in a third party to collect debts at any time. **The Customer shall pay minimum fees directly to the third parties brought in for this purpose and compensate them accordingly for the time and costs spent in collecting the debt.** Further information is available at [www.swisscom.ch/debt-collection](http://www.swisscom.ch/debt-collection).

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## Security

If Swisscom has good reason to believe that the customer will not adhere to the payment terms in accordance with the contract or if collection may become more difficult, it can also demand an advance payment or security deposit. If the customer does not provide this, Swisscom can take the same actions as in the case of delayed payment. The same rate of interest is paid on cash deposit securities as for savings accounts. Swisscom can offset all customer debts against paid securities.

### Sharp increase in usage fees

If the customer's usage fees increase considerably, **Swisscom is entitled, but not obliged, to inform the customer to this effect.** If there is suspected misuse or doubt about the customer's willingness or ability to pay, Swisscom can bar all services or request a security payment.

## 8. Telephone numbers and other address elements

There is no entitlement to allocation or retention of a specific telephone number or other specific address element (e.g. IP address). Swisscom provides them to the customer for usage purposes. They do not become the property of the customer and therefore may be not be sold, pledged, inherited or in any other way transferred to third parties unless Swisscom gives its express consent. Swisscom can revoke or change them without compensation, if operational, technical or regulatory reasons require it, or in the event of disputes regarding telephone numbers between private individuals. With the proviso that the number may be transferred to another telecommunications provider, the address elements revert to Swisscom, without any compensation, at the end of provision of the relevant service and may be assigned to other customers.

## 9. Data protection

The way in which Swisscom handles customer data and how the Customer can influence its use is set out in the General Privacy Policy available at [www.swisscom.ch/legalaspects](http://www.swisscom.ch/legalaspects), which shall take preference over the GTCs in the event of any conflict.

## 10. Intellectual property

For the duration of the contract, the customer shall be granted a non-transferable and non-exclusive right to use of the services and products. The content and scope of this right are defined in the contract documents. All rights to existing intellectual property or any such arising from the fulfilment of the contract with respect to services and products of Swisscom shall remain the property of Swisscom or entitled third parties. If the customer infringes on the intellectual property rights of third parties and if a claim is made against Swisscom as a result, the customer shall indemnify Swisscom.

## 11. Usage restrictions / Warranty

### Interruptions

Swisscom endeavours to maintain a high level of availability for its services. It cannot, however, guarantee the uninterrupted or faultless operation of its infrastructure and services.

### Third-party networks and services

Swisscom provides no assurances or guarantees of availability, quality, operation or support for telephony or data traffic with or on third-party networks.

### Risks when using services; Swisscom's measures

Swisscom takes precautions to protect its network from intrusions by third parties.

### Swisscom cannot, however, guarantee that

- > the network infrastructure is entirely protected from unauthorised access or interception.
- > spam, malicious software, spyware, hackers or phishing attacks, etc. will not impair the use of the service or damage the customer's infrastructure (e.g. terminals, PC) or otherwise damage the customer.

**Swisscom is entitled to inspect equipment** connected to the telecommunications network for any security deficiencies, to use filters and take other measures to protect the infrastructure of Swisscom, customers and third parties from illegal or otherwise harmful contents and software, and to prevent access to contents which are illegal or unsuitable for minors.

### Contents

Swisscom cannot accept any responsibility for

- > contents transmitted or processed on the customer's behalf by Swisscom or made accessible to third parties by the customer
- > contents which the customer receives via the telecommunications networks
- > the accuracy, completeness, validity, legality, usefulness, availability or timely provision of information that is produced by third parties, available from third parties or made accessible via Swisscom's services.

### Relocation

If the customer relocates, Swisscom cannot guarantee that the same scope of services will be offered at the new location.

## 12. Swisscom's liability

### In general

In the event of breach of contract, Swisscom shall be liable for proven damage, unless it can prove that it was not at fault. **Swisscom shall not be liable for damage arising from simple negligence.** It will, however, pay compensation for damage to property and for purely pecuniary damage per event up to the equivalent of the services drawn during the last contractual year, up to a maximum of CHF 50,000.

**Swisscom's liability for consequential damages, loss of profits, loss of data, and damage as a result of downloads is excluded to the extent legally permissible.**

Swisscom shall not be liable for damage resulting from unlawful use of its services or use of its services or use of its services in violation of this contract. Swisscom is also not liable for damages as a result of the illegal use of its services, or if they are used in breach of contract.

### Force majeure

Swisscom shall not be held liable if provision of the services is interrupted, restricted to varying degrees or rendered impossible by force majeure. Force majeure is particularly understood to include power failures and the incidence of harmful software (e.g. virus attacks).

## Acquisition of goods and services from third parties

If the customer uses its connections to purchase goods or services from a third party, Swisscom is not the contracting partner (neither relating to the goods or services nor relating to the payment), unless expressly agreed otherwise. Swisscom does not accept any liability or guarantee whatsoever for services or goods ordered or purchased in this way, even if it handles the collection of third-party claims.

## 13. Duration and termination

### General

The contract is for an unlimited period. Termination of the contract is possible provided the minimum service periods or extension periods for all relevant services have expired. Terminations must be declared in writing, unless Swisscom accepts another form of cancellation in individual cases. Unless otherwise agreed, each party may terminate a service at the end of the month by observing a notice period of 2 months.

### Minimum service period and extension periods

For individual services, minimum service and extension periods may be provided for in other contractual documents. During their term, amendments to the service package at the request of the customer are not possible, or only at the costs defined by Swisscom.

Termination without cost implications is possible only at the end of the minimum service period or extension period and is subject to two months' notice from the end of a calendar month.

If the Customer cancels a service during the minimum subscription period or extension period ("prematurely") or if Swisscom terminates a service prematurely for one of the reasons specified in Section 6 or due to a payment default, the Customer shall owe Swisscom the charges for the residual period up to expiry of the minimum subscription period or extension period. The charges for the residual period are calculated on the basis of the remaining contract term and the non-discounted standard subscription fee. Subject to deviating regulations. If Swisscom cancels prematurely, without a reason stated in Section 6 being present and without there being a payment default, the Customer shall not owe any charges for the residual period.

## 14. Service overview

Swisscom may forward in suitable form an overview of particular services or all services drawn by the customer from Swisscom. Provided the customer does not, within the period and manner specified in the service overview, request that incorrect information be corrected, the service overview shall become a part of the contract. Should Swisscom, for its part, discover that the service overview is incorrect, it can provide the customer with a corrected version.

## 15. Amendments

### Amendments to prices and services

**Swisscom reserves the right to change its prices, services, Special Conditions and Terms and Conditions of Offer at any time.** Swisscom shall notify the customer in an appropriate manner (e.g. on the invoice or by e-mail) of such changes.

If Swisscom increases its prices such that overall they result in higher total costs for the Customer, or if Swisscom changes a service purchased by the Customer to the significant disadvantage of the Customer, Swisscom shall inform the Customer about this well in advance and – up until the effective date of the change – the Customer may prematurely terminate the service in question (e.g. in the case of options, only the options and not the underlying service) as of said effective date without suffering any financial consequences. **Failure to do so shall be deemed acceptance of the amendment.** Price changes as a result of a change in tax rates (e.g. increase in VAT) and prices increases from third-party providers (especially VAT services) do not count as price increases and cannot be used as grounds for termination. If Swisscom lowers its prices, it can simultaneously adjust all discounts granted before the fall in prices.

### Modification of the General Terms and Conditions (GTCs)

**Swisscom reserves the right to amend the GTCs at any time.** Swisscom shall inform customers appropriately (e.g. on the invoice or by e-mail) and in advance about any changes to the GTCs. If the changes are to the customer's disadvantage, Swisscom shall inform the Customer well in advance and the Customer may prematurely terminate the contract before the effective date of the change as of said effective date without suffering financial consequences. **Failure to do so shall be deemed acceptance of the changes and these shall apply for all of the services purchased from Swisscom by the Customer that are subject to these GTCs.**

## 16. Transfer

Transfer of the contract or rights or obligations from this contract must be agreed to in writing by both parties. Swisscom is entitled to accept a change of party where the parties consent to this verbally, online or tacitly. Swisscom may transfer the present contract or the rights and obligations arising from it to Swisscom Ltd or a different company without the agreement of the customer, provided Swisscom Ltd directly or indirectly controls this company. Furthermore, Swisscom is entitled to transfer or assign contracts or debts arising therefrom to third parties for purposes of debt collection, without the agreement of the customer.

## 17. Court of jurisdiction and applicable law

The contract shall be governed by the laws of Switzerland.

**The place of jurisdiction shall be Bern,** mandatory places of jurisdiction reserved (see specifically Art. 32 and 35 of the Code of Civil Procedure (ZPO) for consumers).