

General Terms of Business

1. Services of Monsoon Networks AG

General

Monsoon Networks AG (hereinafter «Monsoon») allows its customer (hereinafter «Client») Internet access via wireless internet broadband (hereinafter «internet access») via the infrastructure supplied by Monsoon and its roaming partners. The Client has to install the necessary hardware (WLAN cards, GPRS combi-cards, DSL routers, etc., hereinafter «terminal equipment») before access can be made to the Internet and its associated services. Monsoon's current brochures and Website provide information on the scope of the individual services provided by Monsoon and the specific terms of use that apply to them. Monsoon may use third parties in order to deliver its services.

General

The service provided by Monsoon is detailed in the applicable subscriber contract, the applicable product definition, the applicable price list and this document "General Terms of Business".

2. Obligations of the Client

General

In particular, the Client must ensure that the internet access is used in accordance with current legislation and existing contracts (esp. Clause 5) and that the payments for services subscribed to (see Clauses 3 and 4) are made on time.

Client's hardware

The Client is responsible for acquiring and installing their terminal equipment, and for ensuring that it functions correctly and in accordance with current legislation. Monsoon does not grant the Client any investment protection.

The Client must take measures to prevent unauthorised intrusion into other systems and to combat the spread of computer viruses. If a Client's terminal equipment or internet access causes a fault in or damage to the equipment of Monsoon or third parties, Monsoon can, without giving prior notice and without being held liable for indemnification, discontinue the provision of service and seek compensation from the Client.

Responsibility for the use of WLAN access

The Client is responsible for all use of their internet access, including any use by third parties. In particular, the Client must pay all the charges billed for the use of the internet access. This also applies to goods or services subscribed to or ordered through their internet access. The Client must keep the details of their user name and password, as well as any other security codes allocated to them, in a safe place away from the terminal equipment, and must not disclose them to third parties.

3. Prices

General

Charges are billed on the basis of Monsoon's current price lists. Monsoon can notify prices immediately before a specific service is used or may list the prices on its Website (e.g. roaming prices). On request, Monsoon will notify the prices for special services that the Client requires. The Client must pay subscription charges from the moment the connection to WLAN access is made. Even if the WLAN access is occasionally blocked, the Client will still be billed for the prices agreed in the «Subscription Contract».

4. Billing and terms of payment

General

Depending on the product in question, Monsoon charges for services based on the agreed on payment method. These charges shall be upheld in the event that the Client raises objections to the bill, but Monsoon's technical investigations show no evidence of billing error. Roaming charges in particular can often only be billed after a substantial delay. The bill must be settled by the date specified on the invoice. If no such date is specified, the standard terms of payment are 10 days from the date of invoice. The Client may lodge a written objection against the bill, stating the reasons, before the date payment is due. Failure to do so is understood as an implicit acceptance of the bill. If the contract is terminated, any outstanding amounts are payable immediately. The Client may not use any counterclaims to offset the amounts payable to Monsoon.

Late payment

If the Client fails to pay the bill on time or has not disputed the bill in writing (giving reasons) by the date payment is due, Monsoon will without prior notice discontinue the services provided under all the contracts with the Client (e.g. by blocking all internet access), and will take additional measures to prevent further losses and/or cancel the contract without having to give notice or provide compensation. If a reminder has to be issued, Monsoon will charge reminder fees. The Client is liable for any costs incurred by Monsoon as a result of late payment.

Credit limit; advance payment, security

Monsoon can set and amend credit limits. If the Client reaches the credit limit, Monsoon can block all WLAN accesses, but is not obliged to do so. Monsoon will tell the Client which payment methods are available (e.g. direct debit or credit card), to avoid exceeding the credit limit or to bring the outstanding amount back below the credit limit. These payments are credited to the next bill as soon as they are entered into Monsoon's billing system. However, any invoices already issued must be settled in full irrespective of these payments. If Monsoon has any doubts about the Client meeting contractual payment obligations, or if there are problems collecting the amounts due, Monsoon may ask the Client to make an advance payment or provide a security. If the Client fails to do so, Monsoon can take the same action as for late payment.

Ordering or subscription of goods and services

If the Client orders or subscribes to goods and services from Monsoon, Monsoon will add these amounts to the Client's bill. The conditions of Clause 4 – especially regarding late payment – also apply, even if Monsoon is only collecting amounts on behalf of third-party providers. Monsoon is entitled to pass on relevant data to third parties who require them as evidence of the amounts the Client owes them.

5. Information content; correct legal and contractual use; misuse

Information content

The Client is responsible for the content of the information (data, language in any form) transmitted or processed by Monsoon or made available by the Client to third parties. Monsoon is not responsible for these data nor for any information that the Client receives via the internet network or which third parties distribute or make available via internet networks.

Correct legal and contractual use

The Client is responsible for ensuring that the internet access is used in accordance with current legislation and existing contracts. The Client may not use the internet access to disturb or annoy (e.g. spamming) third parties, nor to prevent the correct functioning of another network access, nor for any other, illegal, purpose. Illegal purposes include the transmission or provision of illegal content, as well as advertising campaigns or messages where the sender knows (or must be aware) that the recipient does not wish to receive promotional calls or messages.

Usage of Monsoon Services Through Third Parties

A direct or secondary use of Monsoon services through third parties is prohibited without explicit written permission from Monsoon Networks. In particular, it is prohibited to give or share user names or passwords, or in any other way allow or enable unallowed third party use.

Measures against misuse

If there is evidence of illegal use of an internet access, if such misuse is reported by a competent authority, or if a legal ruling decrees a misuse, Monsoon can demand that the Client's access be in compliance with current legislation and existing contracts, may discontinue the services provided without prior notice or indemnification, cancel the contract without notice or indemnification and if necessary seek compensation. Monsoon can effect the same measures if it has grounds for assuming that the Client is violating or will violate the contract, or that they provided incorrect or incomplete details when taking out the contract. If Monsoon cancels the contract for any of these reasons, the Client shall be liable for the payment of any outstanding amounts in accordance with the contractual conditions governing the early termination of the contract.

6. Data protection

General

Monsoon treats all data in accordance with the applicable legislation, in particular the Swiss Federal Telecommunications and Data Protection Act. Monsoon captures, stores and processes only the data that it requires for providing its services, and for servicing and supporting the Client, as well as information needed to ensure a high standard of service, secure operation and infrastructure, and an efficient billing system.

As part of the conclusion and execution of this contract, the Client allows Monsoon to gather information about them or to pass on within the company details of their payment history. Monsoon is also entitled to use the Client's data to ensure that its services are designed and developed in accordance with clients' needs, and for the purpose of producing customised solutions. The Client also agrees to allow their data to be processed within Monsoon for said purposes. If Monsoon provides a service in conjunction with a third party, or if the Client accesses the services of a third party via Monsoon's network, Monsoon can pass on the Client's details to third parties to the extent that this is necessary for the provision of such services.

Monsoon takes the necessary measures to protect its network from outside intrusion. However, it is unable to guarantee absolute protection against unauthorised access or illegal eavesdropping. Monsoon cannot be held liable for such intrusions.

7. Intellectual property

For the duration of this contract the Client has the non-transferable and non-exclusive right to use Monsoon's services and products. The content and scope of this right are set down in the contract documents. Monsoon or the authorised third parties retain all rights to existing intellectual property, or to any intellectual property resulting from the fulfilment of this contract, with respect to Monsoon's products and services.

8. Restrictions on use

Monsoon strives to ensure maximum availability for its internet network. However, Monsoon cannot provide any guarantee that its internet network will function without interruption or fault, nor can it specify definite transmission times and capacities. Monsoon reserves the right to carry out maintenance work on its internet network at any time, which could occasionally result in temporary loss of service. Monsoon is unable to provide any assurances or guarantees as regards availability, quality, operation or support for Internet access to third-party networks or connections to third-party networks, the electromagnetic fields created by Monsoon's transmission devices or by terminal equipment can be affected by devices such as microwaves, and this may impair their function. To avoid problems, care should be taken to observe the manufacturers' instructions. The Client must inform themselves regarding any bans or restrictions on use, (e.g. in traffic, or on an aircraft) and make sure that they comply with them.

9. Monsoon's liability

General conditions with regard to liability

In the case of breach of contract, Monsoon is liable for any proven loss, unless it is able to demonstrate that it was not at fault. Monsoon cannot be held liable for losses resulting from slight negligence. Monsoon is only liable for consequential damages, lost profits or loss of data as far as this cannot be excluded under Article 100 OR. Nor is it liable for losses resulting from its services being used in ways that are illegal or in breach of existing contracts. Monsoon is not liable if, as a result of force majeure, its services are partially interrupted, totally or partly restricted, or impossible to deliver. Force majeure includes particularly violent natural catastrophes (avalanches, flooding, etc.), military conflicts, strike, unforeseen restrictions by authorities, power loss, virus infection, etc.

Information services and Internet access in particular

Monsoon provides no assurance and accepts no responsibility for the accuracy, completeness, timeliness, legitimacy, usefulness, availability and punctual delivery of information that is made available via the internet access. Monsoon does not refund any charges and does not accept any liability for losses incurred as a result of downloads. Monsoon is not deemed to be a contracting partner where the Client uses the internet access to subscribe to third-party goods or services, unless explicitly agreed otherwise. Monsoon does not accept any responsibility or provide any guarantee for the goods or services subscribed to or ordered via the internet access, even in cases where Monsoon is responsible for collecting payments from the Client for third parties.

10. Duration and normal termination of the contract

The contract is concluded for an indefinite period. Notwithstanding specific provisions in the other contract documents, either party may terminate the contract by giving the standard 60 days' written notice.

11. Itemised statement; amendments to the contract

Itemised statement

Monsoon can provide the Client with a statement, in a suitable format, of specific services or of all services that he/she subscribes to with Monsoon. Unless the Client sends a letter, email or fax by the deadline noted on the statement asking for disputed items to be rectified, the statement is accepted as an integral part of the contract documents. If Monsoon discovers an error in the itemised statement, it can send a new version to the Client.

Amendments to the contract

Monsoon reserves the right to change its services, prices and the current General Business Conditions at any time.

Monsoon will inform any changes to the Client in the appropriate way. If Monsoon increases its prices so that the overall burden to the Client is higher, the Client may cancel the contract prematurely up to the point when the new charges come into effect without incurring financial penalty.

Monsoon will confirm any amendments to the contract requested by the Client in the appropriate manner. Unless the Client sends a letter, e-mail or fax by the deadline noted on the order confirmation or itemised statement asking for an amendment, the change shall be accepted as an integral part of the contract documents. Monsoon will note the time of the contract amendment. Monsoon will provide separate information on the opportunities and conditions under which the Client is able to make changes himself.

12. Transfer

The written agreement of both parties must be given for the transfer of this contract or the assignment of the rights and obligations deriving from it. However, Monsoon can transfer this contract or the rights and obligations deriving from it without the Client's consent to another company controlled directly or indirectly by Monsoon.

13. Applicable law and competent courts

The present agreement is subject to Swiss law. The place of jurisdiction is Zurich. Other jurisdictions may, however, be obligatory.