



General Terms and Conditions

of the St. Maarten Telecommunications Operating Company N.V.
(herein after referred to as TelEm Group)

Applicability:

Please read these terms and conditions ("T&C") carefully to be informed of the services being offered to you the customer. It is understood that upon submission of your registration form, you agree to be bound by the T&C set forth below. If you do not wish to be bound by these T&C, you may not use or gain access to our services. TelEm Group may at anytime modify the T&C, and such modifications shall be effective immediately upon posting of the modified T&C. You agree to review the T&C periodically and your continued access or use of the Service shall be deemed your conclusive acceptance of the latest version of the T&C.

This agreement applies to our relationship for the provision of services by us.

In this agreement:

- **"We"**, "us" or "our" means the TelEm Group, which includes the following entities:
TelEm NV, TelCell NV & Smitcoms NV.
- **"You"** means you, our customer
- **"Services"** covers all goods and services of any kind we agree to provide to you and anything else we do in connection with those goods and services.
- **"Representative"** means any company which is directly or indirectly a subsidiary of TelEm Group.
- **"Agreement"** shall mean the total of specific and/or standard agreements or terms & conditions concluded between us and you, related to any of our services

The conditions outlined covers the areas of *Standard Telephony (Postpaid and Prepaid)*, *Mobile (Postpaid and Prepaid)*, *Data (including DSL Broadband and Leaseline services)*, *Long Distance (international)* and *Value Added Services (VAS)* available at the TelEm Group.

The T&C of each of the above services are defined in more detail in the different terms listed below and defined in the appendixes provided as well as any other related documents to which reference is made. If any of the following service documents contradict each other, the standard terms will apply in the order set out below (whereby the highest number shall have priority over any conditions set out in a document of a lower number):

1. Residential & Business standard terms;
2. Service Terms
3. Price Terms
4. Value Added Services terms
5. Special Offer Terms

These Terms and Conditions apply effective **May 2011**.

RESIDENTIAL & BUSINESS STANDARD TERMS

Our Service(s):

1. The standard terms related to the various services being offered apply to:
 - a. the service(s) described in the relevant service terms; and
 - b. the equipment provided per service.
2. The services and equipment being provided to you under these terms may be used either for residential or business use, depending on the type of account/Agreement concluded.
3. The service will be provided with the applicable equipment (if necessary) to your local address provided to us.

Period of the service(s):

4. If the service is intended to last for a minimum period, details will be set out in the special-offer terms or the price terms. The service period will start on the date that we provide the service to you, unless the service terms say otherwise.

Use of the service(s):

5. You agree to use the service(s):
 - a. Only for the means for which it was provided to you.
 - b. With due care and attention.
 - c. For your use only and not another person/business.
6. You agree not to use the service(s) or to allow the service(s) to be used:
 - a. In any way that breaks the law or causes infringements.
 - b. To offend, inconvenient, annoy or cause a nuisance to anyone.
 - c. Affect the manner in which our service is provided to you and/or any of our customers.
 - d. Without written consent or agreement with the TelEm Group to gain profit or income on the service provided.
 - e. For other means than it is intended for.
7. In case of misuse of the service, we reserve the right to with immediate effect suspend the service and/or terminate the agreement; in such case, notification to you is not necessary even if you are unaware that the service has been misused. Suspension and/or termination shall leave unharmed any other remedies or rights we may have under the law and/or our Agreement (whether terminated or not).
8. You agree that your fixed phone number:
 - a. May be published in our telephone directory (print or other media) unless it is designated a "private" number.
 - b. Will remain our property and will not be transferrable to another person or business.
 - c. Will not be used for any fraudulent or criminal activities.
9. If you wish to connect equipment to our network other than by using a TELEM TelEm Group standard phone socket, you must get our prior express and written permission or certification.

Interruption of the Service(s) (Force Majeure/Act of God):

10. We shall make every reasonable effort to ensure that the Services are being provided without interruption. However interruptions and limitations in the Services will occur from time to time which cannot (technically) be avoided. We (therefore) do not guarantee our Services to be free from any interruptions or limitations and we do not accept any liability for interruptions to the Service outside its normal operations. If your service has been interrupted within the normal operations of the service and/or due to an operation being carried out by us, which interruption exceeds ten (10) consecutive days, you will be entitled to a refund of a portion of your access fee after assessment and confirmation of the interruption. Any liability for interruptions or failures whether in or outside of normal operations for indirect and/or consequential damage is hereby expressly excluded.
11. If the interruption is due to force majeure (act of God), which includes (severe) weather conditions, the entitlement to any refund or compensation does not apply.
12. Our Services may also be affected or interrupted by Regional, National and/or International connections or government policies either in or outside of our normal operations. We shall bear no liability in such cases.

Termination of the service(s)

13. If we stop providing the service on your behalf/at your request, you will be required to pay all outstanding fees up to and including the last day of service.
14. In case of termination we will pay any money owed to you and/or we will/may deduct any outstanding amounts owed to us under the Agreement or any other type of agreement or duty of law between us.

Payment for service(s):

15. You agree to pay the applicable fees and charges for the service and equipment provided to you based on your request. This equally applies to any additional charges that you or anyone else using the service provided to you may incur, including charges for late payment, reconnection fees, interest charges and costs. Methods of payment are outlined in the service terms or as per any other agreed terms.
16. Billing:
 - a. We will bill you monthly for the service(s) you have requested from us. If you have requested or used additional service(s), you may be billed at a later date and the applicable amount due will appear on your next bill. Depending on the time of activation of the service, there may be a delay with applying the necessary cost to your bill; charges may appear at a later date.
 - b. Your bill(s) will be sent to your home address (as provided), unless otherwise requested. Your bill(s) can also be obtained online on TelEm Group Corporate Website under "My Account"
 - c. Your first bill will be processed in the first billing cycle after providing the service. After this, you will receive your bill regularly.
 - d. Due dates can be seen on your bill. Disconnection dates will be provided to you via the media monthly. If there is a delay with the billing process, the due dates and disconnection dates will be adjusted accordingly.

17. You agree to pay the charges outlined in your bill before the due date. At times you will be required to pay a deposit or payment before receiving the service or equipment. This may apply in cases where international or roaming access is requested.
18. Notification of disconnection periods will be on your bill as well as in the media monthly. If you do not pay your bill before this time, a late payment charge of ANG 25.00 for each telephone connection or number to your account must be paid before your service can be restored. An applicable fee of ANG 20.00 will also be charged to you in the event of any direct debit or check payments returned due to insufficient funds in your account.
19. General suspension or termination of your service will take place on/after the disconnection date, unless otherwise necessary as outlined in the service and/or price terms. Early suspension or termination may apply based on the following:
 - a. If you have not paid your bill.
 - b. If there is clear indication of fraud or extra-ordinary high usage.
20. We may solicit a collection agency on our behalf to collect any outstanding moneys owed to us by you due to an unpaid bill. You will then incur additional charges (not exceeding reasonable costs) for breaking the terms of the agreement; these charges (depending on the amount owed) will be added to your debt. In the event your agreement has ended, this process will still apply.
21. If you agree, you may obtain your bills online and refrain from receiving a paper bill. You will be notified via e-mail when your bill can be viewed online. Further information is set out in the Price Terms. (future – to be confirmed).

Our responsibility to you

22. We agree to make our best efforts to provide you with:
 - a. The best quality service reasonably possible for the desired service.
 - b. All necessary information in relation to the service provided in terms of its operation.
 - c. A customer service line (611) to assist you with queries you may have about our Telecom services. You may call this number between the hours of 7:30 a.m. to 5:00 p.m. free of charge.
 - d. Information in case of changes to our services that may affect you.

Your responsibility to us:

23. You agree to the following responsibilities:
 - a. Make sure you provide us with correct and complete information at all times.
 - b. Allow us or any of our representatives to visit your premises/property to work on our network or anything connected to it. You will be notified at all times before we visit your premises. If you disallow us access to your property, this may affect our ability to provide you and/or others with the related service.
 - c. You are responsible for anyone using your telecom service(s) provided by us.
 - d. You will refrain from performing any work on telecom infrastructure. Only our representatives may work on our infrastructure.

Complaints and Disputes:

24. Complaints and Disputes are to be submitted in writing. We will strive to resolve any disputes you may have with us. In the event that this does not happen under normal circumstances, you can refer the matter to any relevant service that handles disputes.

Confidentiality:

25. In agreement for service of any kind provided by us, we agree with you that all information shared between us will be treated as confidential at all times. The only time that confidential information may be released without your consent is in the case where we are obligated by the law to provide the police/judicial authorities with information and/or to permit eavesdropping activities (request submitted in writing from the appropriate authorities – i.e. Minister of Justice or a Judge).

Cancellation of your agreement and/or return of equipment:

26. Before we have provided you with the requested service, you may cancel your agreement with us, unless otherwise stipulated in the service terms; in such cases, you will be required to pay for charges already incurred on your behalf.
27. In cases where equipment was provided to you for the use of the service and you have cancelled the agreement, you agree to return the equipment following our instructions.
28. A refund for the return of the equipment will be given to you once the equipment is in good condition; the equipment will be tested to establish its status. If it is faulty, you will be charged accordingly based on the actual purchase price of the equipment.

Equipment Guarantee:

29. Hardware:
- a. A guarantee will apply to the equipment provided to you with our services. These guarantees are stipulated below. You must provide a valid purchase receipt for the guarantee to be effective. If these terms are not complied with, the guarantees are considered null and void.
 - i. Landline phone: sixty (60) days with presentation of your purchased receipt and installation date.
 - ii. Mobile phone: sixty (60) days with presentation of your purchased receipt.
 - iii. DSL modem: sixty (60) days with presentation of your purchased receipt and/or installation date. It is also your responsibility to ensure that you protect your system with a back up power outlet (i.e. UPS).
30. Accessories:
- a. Guarantee on accessories has a warranty of ten (10) days with the presentation of your purchased receipt.
31. Network Connections
- a. Your guarantee for our network connections will apply based on the agreed terms of your contract.
32. If there is abuse or deliberate misuse of the equipment, accessories and/or network connections provided, your guarantee will automatically be defaulted.

Fair Usage Policy:

33. As part of our commitment to providing you with excellent, quality, faster download speeds and reliable service, TelEm Group's Fair Usage Policy has been established to ensure that our customers act reasonably when using our services. All services provided by us are subject to our Fair Usage Policy, which in our reasonable opinion your usage of our services is excessive and/or unreasonable when it is above the limits as detailed below:
- a. Local calls – 3000 minutes per month unless otherwise specified by plan
 - b. Mobile downloads – 100 Mb per month unless otherwise specified by plan
 - c. Wireless broadband devices (*) – 250 Mb per month unless otherwise specified by plan.
 - d. DSL downloads – 45 Gb per month unless otherwise specified by plan.
*EVDO-CDMA, UMTS or other wireless broadband technologies.
34. Our Fair usage policy is based on the profile of our average customer and their estimated usage of our services. If your usage exceeds this profile, then your usage is considered excessive and unreasonable and is a breach of our Fair Usage Policy.
35. We may contact you to advise you that your usage is in breach and:
- a. A fee is applicable if fair usage is exceeded and would be applied to your account.
 - b. If excessive or unreasonable usage continues after a request to stop or alter the nature of your usage, without further notice we may suspend, modify or restrict or terminate your use of the affected service.

Default:

36. If you default on the agreement, your service may at the discretion of TelEm Group be suspended and the agreement terminated for the service or any other services you may have with us; all expressly leaving unharmed any other remedies or rights we may have under the Agreement or under the law. In the case of suspension of the service and/or termination of the agreement, you will be advised what you will have to do to restore the service, should you deem it necessary.

Other terms:

37. Randomly, we will monitor and record calls related to our Customer Service for quality assurance. This process will be done as a training mechanism as well as to improve the quality of our customer service to you. Emergency calls will also be monitored and recorded.

Change of Terms and Conditions:

38. At any given moment, these terms and conditions may warrant a change, due to changes in charges and/or terms and conditions. If the need for this arises, we will publish the details of all changes online on TelEm Group Corporate Website and at the Chamber of Commerce. Such changes will also be available at our office locations.
39. In the event there is a price increase and/or other terms and conditions, that will affect you, we will try to notify you at least one (1) month in advance. Apart from our online notifications, other means of notifying you may be through your monthly bill or an alternative method of our choice.



40. Changes that would require meeting legal and/or regulatory requirements may take some time; in such cases, these changes will be communicated to you as soon as possible.

Final Agreement:

41. This agreement for service is yours personally and/or that of your business. You agree that it will not be transferred to another person or business unless specific instructions thereto have been given by you to us (in writing) with good reason, to be agreed to by us, giving that person your permission and/or authorization to act on your behalf.
42. All contact with you, will be done via your billing or e-mail address and/or your mobile or fixed phone number. In return, you should contact us using our address on your last bill, or any other contact information given to you by us for this purpose.
43. If there should be a situation where these conditions do not apply, specific conditions may be applied at the discretion of the Management of the TelEm Group.
44. **This document is filed at the Chamber of Commerce of St. Maarten, Netherlands Antilles, located at: C A Cannegieter Street #11, Philipsburg, St. Maarten, and is available to you.**

SERVICE TERMS

These terms covers the service that will be provided to you based on the various services being offered by us. The terms below supersedes the standard terms found in the general section of these conditions, should there be a conflict.

Standard Telephony Services:

We agree to provide you with:

1. A regular telephone connection to your home or business to the point of your primary telephone connection (Telephone Jack/telephone).
2. Options for service include:

a. For our Residential Customers:

i. Postpaid line – where you would pay monthly for the service.

1. **Accounts that have an outstanding after three (3) months will be subject to termination**

ii. Fixed Prepaid line – where you would pay in advance for the service by purchasing a prepaid card to recharge your phone and be able to make calls.

1. **Accounts that are not recharged after three (3) months will be subject to termination.**

2. **You should recharge your account before the expiration date or you will lose any balance on your account. Recharging before the expiration date will add your existing balance to the amount for which the account is being recharged. Recharging after the expiration date would result in the loss of funds/your previous balance.**

b. For our business customers:

i. Postpaid line – where you would pay monthly for the service. Multiple phone lines are possible with this service. The applicable charges would apply for the additional lines.

ii. Fixed Prepaid line – where you would pay in advance for the service by purchasing a prepaid card to recharge your phone and be able to make calls

iii. Private Branch Exchange (PABX) which includes

1. A small business solutions system installed at your business.
2. Extensions for each telephone line necessary at our Central Office.
3. Connection to the main telephone system.

c. **Public Payphone:** These phones are located in public areas from which calls can be made using the following mediums: Coin, Card, Credit Card (Harbor, Airport and Capital (Dutch side)) locations which are subject to change.

1. **Public Payphone installed at business location in a public area (easy access for customers visiting the business).**
2. **Public Payphone installed in public areas throughout the districts.**

Mobile Services:

We agree to provide you with:

1. A mobile (cellular) connection.
2. An option for service:
 - a. **Postpaid Account** – where you would pay monthly for the service.
 - i. You may choose from the different available packages for such an account.
 - b. **Prepaid Account** – where you would pay in advance for the service by purchasing a prepaid card or topping up your account to recharge your phone and be able to make calls.
 - i. You may choose from the different available packages/plans for such an account.
 - ii. The ability to use your TelEm Group Mobile Pre-Paid service by using the SIM card that we provide (as outlined in our special offer terms) or you would purchase which connects you to our Mobile network wherever it is available.
 - iii. The ability to send and receive information using the TelEm Group Mobile service to connection to web pages and your e-mail;
 - iv. The ability to top-up your service in the Antilles and other specified countries or any participating retail outlet that provides our Top Up services.
 - v. If you do not recharge your account for **three months** we will recycle your SIM card number. We will let you know after five months of non-use that we intend to close your account in a month's time if you do not use it during that month.
 - c. **International Service**
 - i. You may choose to open your postpaid account for international service, by paying the appropriate fees for this service.
 - ii. All calls made via our representative – SMITCOMS N.V. will be charged via your bill based on our rates.
 - iii. Calls made via other service providers will be charged to you by that provider based on their rates.
 - d. **Roaming Options**
 - i. When necessary, you may request for your postpaid account to be allowed to roam, where you can receive/make calls as you wish.
 - ii. The ability to use your TelEm Group Mobile service abroad **where** prevailing roaming charges apply.
 - e. **Value Added Services**
 - i. The value added services offered by us to you may not be available depending on the type of mobile phone you purchase and/or the package/plan of your choice. **More specific details outlined in the VAS service Terms.**

Broadband (Data) Services:

We agree to provide you with:

1. High speed network access to the internet
 - a. This provision includes the package of your choice
 - b. If you have internet access service from us, you accept that you are using the internet at your own risk. You are responsible for making sure any equipment you use to access the service is protected against viruses.
 - c. If the service gives you content or software license by others who ask you to accept their terms of use (**for example** the Yahoo Terms of Service with content licensed by Yahoo), you must adhere to these terms and we are not responsible for any mishaps you may incur when accepting these terms.
 - d. You are responsible for properly using any user IDs, personal identification numbers (PINs) and passwords needed for the service, if any, and must take all necessary steps to make sure that you keep these confidential and secure, use them properly and do not make these available to unauthorized persons.

2. Helpdesk services
 - a. We have made this service available to you on a daily basis from 7:00 a.m. – 11:00 p.m. You may call 548-HELP (4357) for access to our helpdesk service. If necessary, any changes in relation to this service will be shared with you in a timely manner.

3. Other broadband services as described on TelEm Group Corporate Website, includes:
 - a. DSL
 - b. Frame Relay
 - c. Virtual Private Network - VPN
 - d. International Private Lease Internet Service – IPL-IS
 - e. International Private Lease Circuit (IPLC)
 - f. WiFi Service (Smart WiFi)

International Services:

We agree to provide you with:

1. Access via our network to the Global world to connect and make worldwide calls using the following mediums:
 - a. Voice:
 - i. Landline (POTS):
 1. Standard Telephone - Postpaid or Prepaid service
 2. VOIP (Natternet)
 - ii. Mobile (cellular phone) – Postpaid or Prepaid
 - b. Data
 - i. Internet Access
 - ii. Lease Lines
2. The applicable fees would be charged as outlined in the price terms and/or the various print medium provided by us.
3. The ability to choose your international carrier via carrier select (select carrier when making your call) or carrier pre-select (select your carrier in advance and make your call directly).

VALUE ADDED SERVICES TERMS

General:

These terms covers the additional services that are made available to you by us to further enhance your telecom needs. The terms below supersedes the standard terms found in the general section of these conditions, should there be a conflict.

We agree to provide you with:

1. Services apart from the normal standard telephony, mobile, data and international connections termed as "Value Added Services - VAS."
2. Some VAS are free of charge; for example (but not limited to):
 - a. **Call Waiting:** you will be notified of and be able to accept a second incoming call after an alert (a beeping sound). Details on how to accept and switch between calls are available in the telephone directory, brochures and/or our website. Standard Telephony and mobile services uses this feature.
 - b. **Cancel Call Waiting:** you are allowed to disable the call waiting feature for the duration of a call. This feature is commonly used when a call is not to be disturbed or when the same telephone line is used for internet service. After the call is completed. Call waiting is resolved to the subscriber's line.
 - c. **Call Forwarding:** Allows you to forward incoming calls to another telephone number; this number can be your home, work, cellular and/or even an international number and/or an attendant.
 - d. **Self Block Code** (only applies to standard telephony service); you can take control of the calls being made from your standard telephony postpaid or prepaid phone by simply putting a four-digit code, that must be entered before the call can be connected; you would be prompted when to enter the code.
3. Other VAS is made available to you for a fee; you would be required to pay the applicable fees. These include, but is not limited to:
 - a. **Caller ID:** Allows you to see the number of the person calling you on a displayed screen on your phone.
 - b. **Caller ID Block:**
 - c. **Hot Line (Automatic line):** The automatic line connects to a set location as you pick up the phone your call goes directly to the set location.
 - d. **Incoming call bearing:** Disallows you to make outgoing calls. (available upon request)
 - e. **Outgoing call bearing:** Prevents you from receiving calls (available upon request).
 - f. **Self Block Code** (only applies to standard telephony service); you can take control of the calls being made from your standard telephony postpaid or prepaid phone by simply putting a four-digit code, that must be entered before the call can be connected; you would be prompted when to enter the code.
 - g. **Three Way Calling:** Allow you to speak to two-other person at the same time.

Other VAS that applies to the mobile service includes but is not limited to:

1. **Call Divert:** Like call forwarding this service permits instant transfers of incoming calls to any other direct dial telephone number. Unlike Call forwarding whoever call divert gives you the option to chose which calls you want diverted.
 2. **Call Waiting:** When you are on a call, this option alerts you with one or two beeps when you have an incoming call. You may go back and forth between parties.
 3. **Caller ID:** Your caller's phone number appears on the display screen before you answer the call.
 4. **GPRS (General Packet Radio Service):** allows you to utilize/gives you the following services: WAP (Wireless Application Protocol, MMS, SMS, and the Internet
 5. **MMS (Multimedia Messaging Service):** Allows you to send messages that include multimedia objects such as images, audio, video, and rich text.
 6. **SMS (Short Message Services):** Allows you to send and receive text messages from other GSM subscribers.
 7. **Voice mail:** Allows your caller to leave a message in your personal mailbox when a call goes unanswered.
- ii. These VAS services are subject to change (add or delete) at the discretion of the TelEm Group.

PRICE TERMS

General:

If the relevant parts of the Price Terms contradict any of the other terms and conditions of the service, the other terms and conditions will apply in the order in which they apply.

1. All prices and payments quoted in these price terms apply to the costs involved for providing the service. For the basic monthly charges, included is the TOT (based on a tax rate of 3%) except where it says otherwise and we may work out your charges for the services without including TOT. All prices, payments and charges may be subject to an administration fee of maximum 6%.
2. We charge calls by the **day** and **time** they are made, and the time periods described in these TelEm Group Telephony Services price terms as follows:
 - **"Daytime"** means any other time period; also referred to as the **Peak Period**
 - **'Evening'** means before 7 am or after 7 pm on Monday to Friday; also referred to as the **Non- Peak Period**
 - **'Weekend'** means any time on Saturday or Sunday
3. **Extra connection and equipment charges**

If it is necessary to provide telephony services using equipment which we do not provide as standard, we may charge a special rental rate or any other charge for that. We may also charge you for extensive new construction over and above standard needs
4. **Price Categories:**

There are different categories for which TelEm Group charges basic pricing. These areas include, but are not limited to:

 - a. **Installation Fees:** Basic fee that covers the charges involved in connecting the service through a system of machinery or other equipments set up for use.
 - b. **Monthly subscription fees:** The basic monthly fee that is paid by Postpaid Subscribers for POTS (landline) and Mobile services.
 - c. **Service Plans:** a layout of the different services that we have to offer you, which may include other specific terms and prices apart from the norm used to provide the service to you.
 - d. **Other Services:**
 - **SIM Cards:** Cards used by mobile users to store encryption and information necessary for use of the mobile phone by the customer.
 - **Cellular Phones:** a mobile phone (different types are made available)
 - **Prepaid Cards:** Cards used by the customer to add credit to his/her account: (prepaid account).
 - **Phone Cards:** Cards used by the customer on the public payphone to make a call (local and/or international).



- **Top-up Service:** a means of adding credit to your account for your mobile phone.



SPECIAL OFFER TERMS

General:

TELEM Group Special Offer terms is designed to apply ONLY to special offers being offered to you for our services as they are made available to you in this manner as a "SPECIAL OFFER." If the relevant parts of the Special Offer Terms contradict any of the other terms and conditions of the service, the other terms and conditions will apply in the order in which they apply.

1. For SPECIAL OFFERS, you will be informed of information including but not limited to:
 - a. The period of the special offer.
 - b. Any additional terms and conditions that apply to the offer
 - c. Your responsibility
 - d. Our responsibility
 - e. Prices associated with the offer.