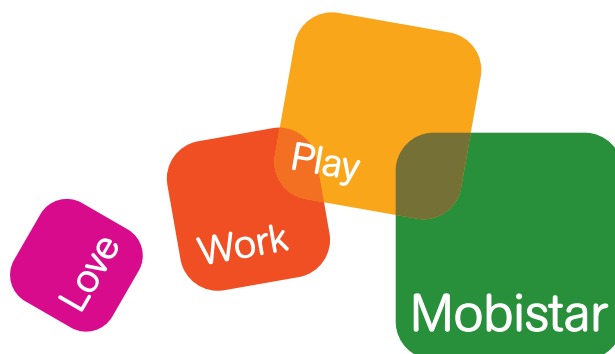


# Mobistar Enterprise Services

## General Terms & Conditions



## 1. DEFINITIONS

**Mobistar:** Mobistar, with registered office at 1140 Brussel, Bourgetlaan 3, VAT BE 0456.810.810, registered in the Brussels register of legal persons (R.P.R.).

**Customer:** natural person, legal person or de facto association with which Mobistar has entered into a contract to supply the service.

**Mobistar Equipment:** all materials supplied to the Customer for the purpose of delivering the service; this includes, among other things, hardware and/or software, installations, (electronic) equipment, cables, physical connections and instruments.

**Service order form (SOF):** the contract for service that is drawn up in writing then completed and signed by the Customer. It contains all useful data that permit Mobistar to evaluate the order or, in some cases, to accept it.

**General Terms and Conditions:** the entirety of Mobistar's and the Customer's rights and obligations.

**Price list:** the list of prices charged for the service(s) provided and any related services, where applicable.

**Service(s):** the data, voice or internet telecommunication services, including the requisite materials, that Mobistar delivers to the Customer under the naming 'Mobistar Enterprise Services'.

**Contract:** The SOF, the general terms and conditions, the technical documents, service level agreement, price list, in some cases the specific conditions and every written reference to this contract. All prior verbal or written arrangements agreements relating to the object of this contract are to be considered as non-existent and as replaced by this contract.

**Working days:** Monday through Friday from 8.30 a.m. to 5.30 p.m., except for recognised national public holidays.

## 2. SCOPE

**2.1.** These general terms and conditions apply to all orders, tenders and contracts relating to the services to the extent that the parties have not expressly specified otherwise in writing. These general conditions apply to the exclusion of the Customer's general conditions. The Customer is notified of the general conditions no later than when the SOF is provided. The general terms and conditions are also permanently available for consultation on Mobistar's website and/or can be requested by calling its Customer service department.

**2.2.** The Customer's placement of an order is to be considered an acceptance of these general terms and conditions and where applicable any specific conditions relating to a given service.

**2.3.** Should the provisions in the documents that comprise the contract contradict one another, the following order of precedence shall apply:

- the SOF
- The annexes to the SOF (tender, rates, technical specifications, service level agreement, any specific conditions)
- the general terms and conditions

## 3. CONCLUSION AND DURATION OF THE CONTRACT

**3.1.** In placing an order the Customer agrees to purchase the services in question. The Customer places an order by sending Mobistar two signed original copies of a completed SOF, including annexes. If Mobistar does not respond within eight (8) working days of receiving the order, the order is considered as having been accepted.

**3.2.** The Agreement comes into force on the date Mobistar signs the Contract. Mobistar enters this signature date on the Contract. The Agreement is concluded for the term mentioned on the Contract, which is either permanently or a fixed term. The term starts on the date of the first invoice. If the term is fixed, the Agreement is automatically extended indefinitely when the agreed term has passed and each Party can cancel the Agreement in writing without mentioning the reason. If the Customer cancels, the Contract is terminated at a time chosen by the Customer, which may be immediately. In that case, Mobistar shall terminate the relevant Service as soon as

technically possible and send a written confirmation of this to the Customer. If Mobistar cancels, Mobistar shall respect a one-month notice period.

**3.3.** Mobistar can ask the Customer to submit the following documents before entering into the contract:

- identity card;
- a copy of the articles of association published in the Belgian Official Journal as well as any changes made to them;
- evidence of power of attorney or representation for a legal person or de facto association.

**3.4.** Mobistar reserves the right not to enter into a contract in the following cases:

- technical reasons do not permit or do not reasonably permit it to deliver the services;
- the Customer has not fulfilled his obligations under another contract relating to the services.
- the technical or other information that the Customer provides to Mobistar for delivering the service is incomplete or incorrectly entered;
- the Customer's creditworthiness is questionable.

**3.5.** Each indication of a term of delivery, provided in whatever document, is only indicative. Mobistar undertakes to complete the order within a reasonable period. The completion lead time will be fixed by agreement with the Customer by location and by type of access within the framework of a project and will depend notably on such contingencies as the technical facilities present and operational at the Customer's site and any changes or modifications that must be made to them to permit delivery of the services ordered.

**3.6.** If, ultimately, a failure to fill the order is the result of circumstances attributable to the Customer, the latter shall be required to reimburse all the costs that Mobistar has incurred at Mobistar's customary rates and/or upon simple presentation of invoices or other documentary evidence.

**3.7.** Mobistar retains the right to demand, at the time of entering into the contract as well as during its course, that the Customer provide reasonable security – in the form of a guarantee or bank bond. Upon the Customer's failure to pay the guarantee or provide the bank bond within the requested period, Mobistar can refuse to enter into the contract or may terminate it with immediate effect without the Customer having a right to any compensation.

## **4. SERVICE LEVEL**

The service level to be provided is described in the corresponding service level agreement (if applicable) that is appended to the SOF. This last has a bearing on, but is not limited to, the completion lead time, the availability of the Service(s) and the manner in which problems can be reported.

## **5. MOBISTAR'S OBLIGATIONS**

**5.1.** Mobistar agrees to employ its skill and care to provide the Customer with the best possible quality of service. When service(s) are interrupted, the Customer must notify Mobistar of this as quickly as possible after which Mobistar will do all it can to restore service/ the services as speedily as possible. A Customer Services department is made available to the Customer; it provides, as necessary, assistance with the Service. The obligations and procedures are described in the Service Level Agreement of the eventual application. The Customer Services contact details are found on the SOF and on Mobistar's website.

**5.2.** The maintenance and evolution of Mobistar's network can require Mobistar to restrict or suspend its service(s). Mobistar agrees to limit the duration of such restrictions or suspensions to the time strictly needed to carry out these tasks and to notify the Customer about them in advance using every suitable means to do so in cases when these tasks will have an impact on the service(s), except when force majeure makes this impossible.

## 6. THE CUSTOMER'S OBLIGATIONS

**6.1.** The Customer agrees to fulfil the contract taking Mobistar's interests into account. The Customer shall do nothing that could hinder Mobistar from delivering the service(s).

**6.2.** The Customer shall provide Mobistar with all the information that it needs to deliver the service(s). This includes but is not limited to promptly reporting changes to all relevant Customer data. Moreover, Mobistar must be notified promptly of all changes to this information so that it remains able to deliver services correctly.

**6.3.** The Customer agrees not to disrupt or hamper the operation of the service.

**6.4.** The Customer is responsible for the use of the service and agrees to use it only for lawful purposes and in keeping with generally accepted norms and customs and not to act contrary to public order.

**6.5.** The Customer undertakes to comply with the specific (e.g. operational, qualitative, legal or safety) instructions regarding use of the service.

## 7. MOBISTAR EQUIPMENT

**7.1.** It is possible that Mobistar will install and make available for the Customer's use equipment to enable delivery of the service(s). The price for this is set separately.

**7.2.** Mobistar equipment remains Mobistar's exclusive property at all times. The Customer may not sell or lease part or all of the equipment, for profit or for free, to any third party whatsoever. The sale or lease by the Customer is grounds for Mobistar to terminate the agreement without prejudice to Mobistar's right to demand compensation.

**7.3.** The Customer shall notify third parties that lay claim to the equipment or who seek to execute a judgment – such as seizure – of Mobistar's ownership. The Customer shall notify Mobistar of this immediately, and certainly within three (3) working days.

**7.4.** Mobistar or installers that it has engaged shall install the equipment at a location to be agreed with the Customer. Everything possible will be done to set the time of installation, programming and maintenance in consultation with the Customer. The Customer must provide a suitable place for the installation of the equipment; this includes standard power supply and safe wall sockets.

**7.5.** The Customer must treat Mobistar equipment with suitable care and notify Mobistar in the event of loss, theft or damage. The Customer is liable for all damage to the equipment as of the date the equipment is delivered to the Customer unless the damage is the result of incorrect actions attributable to Mobistar. The Customer shall take out suitable insurance for this purpose. The compensation shall be equal to the purchase price of the equipment. If the Customer is unable to provide evidence of this insurance, Mobistar is entitled to take out insurance at the Customer's expense.

**7.6.** The Customer may not alter, relocate, open or adapt or influence Mobistar equipment in any other way without Mobistar's express written permission. The Customer guarantees Mobistar easy access to the places where the equipment is located at any reasonable time so that Mobistar can install, repair or maintain the equipment. Should the Customer fail to do so, Mobistar cannot be held liable for the service's operation.

**7.7.** When the contract is terminated, the Customer remains responsible for the equipment until a Mobistar employee comes to uninstall and remove it.

## 8. DATA TERMINAL EQUIPMENT

**8.1.** The Customer will connect only approved and properly operating data terminal equipment. To this end, the Customer shall comply with the prevailing pertinent technical regulations.

**8.2.** The Customer must disconnect all data terminal equipment that is not approved or that does not operate properly or when its use in some other way hampers or disrupts the operation of the service; the Customer must do so as soon as he ascertains or reasonably should have ascertained this or when Mobistar requests the Customer to do so. Every breach of this provision can be grounds for Mobistar to suspend and possibly terminate the contract.

## **9. NUMBER**

**9.1.** For the benefit of the service, Mobistar can assign the Customer one or more numbers and/or IP addresses and/or mail addresses and, where applicable, corresponding passwords or access codes. The Customer retains this during the period of the agreement, except when Mobistar is required to change it due to exceptional service-related needs. In that case, the Customer will be notified reasonably well in advance.

**9.2.** When a number is changed, Mobistar will do all it can to have the transfer run as smoothly as possible. However, it is possible that technical reasons prevent the change.

## **10. RATES**

For its services, Mobistar will charge the rates found on the price list and/or on the SOF for the services.

## **11. INVOICING AND TERMS OF PAYMENT**

**11.1.** Mobistar is entitled to issue an invoice as of the time the Customer accepts the service. If the Customer fails to accept within 5 working days of Mobistar's request for acceptance, Mobistar will consider the service as having been accepted.

Mobistar will send to the Customer or to a third-party payer indicated by the Customer a monthly invoice for the services provided to the Customer. This does not release the Customer from the obligation to pay when the third-party payer is in default. The third-party payer acquires no right at all to the service(s). Invoices must be paid within thirty (30) days of the invoice date by bank transfer to an account that Mobistar shall designate.

**11.2.** If the Customer leaves his residence or company or transfers them without terminating or transferring the contract, the Customer will remain responsible for paying the sums owed and for the use of the service(s).

**11.3.** When the Customer has not received the invoice, he must afterwards pay the invoice amount that Mobistar shall communicate. A duplicate can be sent at the Customer's request. A fee can be charged for this as of the second duplicate.

**11.4.** Mobistar reserves the right to set an earlier payment date or to change the frequency of invoices in cases such as exceptional volumes or reduced confidence in creditworthiness. Furthermore, Mobistar can request that an advance be paid on the monthly invoice if the magnitude of the amount to be invoiced justifies this or when there is suspicion of fraud or serious doubt regarding the Customer's solvency.

**11.5.** In the event that payment is delayed, the invoiced amount is automatically, de jure and without prior notice of default augmented by the interest due on delayed payment; this sum is equal to the legal interest rate to which is added a damages provision of 15% with a minimum of €100.

**11.6.** When payment has not been received by the expiration of the term of payment, Mobistar will send a reminder. In that case, default fees are charged. Furthermore, Mobistar can decide to suspend or terminate the contract/delivery of the services without notice or compensation, without prejudice to Mobistar's right to demand full payment of all outstanding sums. Moreover, Mobistar reserves the right to charge the Customer a standard amount if the collection of the debt is outsourced to a third party.

## 12. CHALLENGING THE INVOICE

**12.1.** If the Customer is of the opinion that the invoiced amount is incorrect, he must notify Mobistar of this within twenty (20) days of the invoice date citing the heading and the disputed amount. As of that time, the Customer is considered to have irrevocably accepted the invoice.

**12.2.** The obligation to pay the disputed sum is suspended; the undisputed amount must be paid within the normal period. If Mobistar rejects the complaint, the disputed amount is immediately due and payable.

**12.3.** If upon examination Mobistar discovers that the objections were unfounded, Mobistar has the right to invoice any costs it may have incurred.

## 13. LIABILITY

**13.1.** Mobistar is not liable for damage resulting from the service's interruption or malfunctioning unless this is due to a deliberate act or serious misconduct.

**13.2.** Mobistar is liable in the event of tardiness in establishing the service(s) and remedying malfunctions within the conditions set forth and up to the boundaries set in the service level agreement covering this service/these services.

**13.3.** Mobistar can only be held liable for the service(s) it delivers. Its liability ceases at the service access point described in the service level agreement for each service. In no case is Mobistar liable for the way in which the Customer uses the service(s) and related amenities that Mobistar provides nor for any damage that the Customer may suffer as a result of failure to fulfil his obligations.

**13.4.** Mobistar is not liable for the content of voice and/or data communication. Nor is Mobistar responsible for the actions or omissions of others providing telecommunication services or for errors or defects in their equipment.

**13.5.** Mobistar cannot be held responsible for delays or defects in the service when these are the result of force majeure. Examples of this are war, rebellion, riots, popular movements, actions by civilian or military governments, embargos, explosions, strikes or social conflicts (including those in which Mobistar's staff is involved), floods, continuous frost, fire, storms or the actions of third parties.

**13.6.** If Mobistar's liability is demonstrated, its (contractual and extra-contractual) liability will be restricted to repairing foreseeable, direct, personal and irrefutable damage to the Customer, to the exclusion of all indirect or immaterial loss such as, but not limited to, pure financial loss, loss of profit, loss of Customers, loss of or damage to data and the loss of contracts. In all cases where Mobistar is liable, its liability to the Customer is limited to €25 000 per claim, with a maximum of €50 000 per year.

## 14. PROTECTION OF PRIVACY

**14.1.** Mobistar will handle data, which the Customer considers private and which the Customer gives to Mobistar to permit implementation of the present contract, in accordance with the Belgian Protection of Privacy Act (8 December 1992). These data are used

- a) for Customer management and market studies
- b) for drafting, collection and verification of invoices
- c) for the contractual relation with the Customer
- d) for informative or promotional actions about Mobistar's products and services
- e) to compile a directory (online, on CD-ROM or some other medium) of the service's Customers; this directory may be communicated to third parties; to compile a directory of non-commercial URLs (personal homepages).

**14.2.** The private data that the Customer provides for Mobistar is recorded in a file owned by Mobistar. Mobistar manages this data file and is responsible for processing it. The Customer hereby consents to allow these data to be used for the aforesaid purposes.

**14.3.** Upon sending to a written, dated and signed request addressed to Mobistar and accompanied by a copy of his/her ID card, the Customer can obtain free of charge a written statement of the private data that Mobistar holds on him/her. Should this prove to be incorrect, incomplete or no longer relevant, the Customer can request its correction or removal.

**14.4.** Clients can register their subscriber phone numbers on the "Do not call" list for free, at the web address [www.bel-me-niet-meer.be](http://www.bel-me-niet-meer.be) (NL) or [www.ne-m-appellez-plus.be](http://www.ne-m-appellez-plus.be) (FR), so that their numbers won't be used for direct marketing calls. After registration, clients may still receive direct marketing calls for up to a month.

## 15. CHANGES

**15.1.** Mobistar can change these general terms and conditions, its prices, the technical specifications or characteristics of the service(s) at any time. Mobistar agrees to use all available means to notify the Customer of these changes. This notice is provided at least one (1) month before the changes take effect.

**15.2.** Any Customer who does not accept the new conditions on the occasion of such a change may terminate the contract free of charge and in writing; this is to be done no later than the last day of the month following the day the changes took effect. In the case of price increases, the Customer may terminate the contract free of charge and in writing no later than the last day of the month following upon receipt of the first invoice after the price increase took effect.

## 16. TRANSFER

**16.1.** The Customer may not transfer the contract or any part of it without Mobistar's prior written consent. The transfer transfers all rights and obligations under the contract to the transferee, who accepts them. The transferee and transferor must provide Mobistar with a document signed by both testifying to the transfer of the contract.

**16.2.** Mobistar can transfer the contract or part of it to another company in the Mobistar group.

## 17. SUSPENSION AND TERMINATION BY MOBISTAR

**17.1.** Mobistar is entitled to suspend the execution of the contract, in some cases without warning, if:

- a) the Customer remains in default in any way regarding his obligations under the contract and this for more than 5 working days after being notified of this default;
- b) Mobistar has evidence that the service is being abused by the Customer or someone else;
- c) a non-attributable failure or force majeure affects Mobistar; suspension occurs after advanced notification of it and its presumed duration is given, except in urgent cases when the notification will be made as quickly as possible. Non-attributable failures include actions by third parties whose intervention is necessary for delivery of the service(s).

The suspension ends when the Customer has fulfilled his obligations. Fees remain payable for the complete duration of the suspension.

**17.2.** Mobistar has the right to dissolve the contract ipso jure with immediate effect and without prior judicial intervention if:

- a) the Customer remains in default thirty (30) days after being notified of being in default with regard to his obligations under the contract;
- b) the Customer has been declared bankrupt or been granted a suspension of payment (this does not include: commencement or acquisition of a court-ratified composition).

c) If a Service has to be permanently removed due to operational requirements. Mobistar shall inform the relevant Customers as soon as possible by any suitable means. The Contract for this Service shall rightfully end from the moment of removal of the Service without either party owing any damages.

**17.3.** Contract for an indefinite period. Mobistar can terminate the Agreement in any written form and without mentioning the reason, as stipulated in Article 3.2.

## **18. TERMINATION BY THE CUSTOMER**

### **18.1.**

#### **18.1.1.** Contract for a specified period

The Customer can terminate the contract prior to the termination of the initial period for whatever reason on the condition that he/she sends written notice of this and pays compensation in lieu of notice that is equal to:

- a) if applicable, 50% of the total amount of the agreed monthly costs times the number of months that the contract would have still run if it had not been terminated prematurely; and
- b) 50% of the total monthly volume that the Customer used (calling costs and other variable costs) times the number of months that the contract would have still run if it had not been terminated prematurely.

If the Customer uses CPS, Mobistar will consider the contract as broken when Belgacom at the Customer's request no longer assigns the CPS to Mobistar.

#### **18.1.2.** Contract for an indefinite period

The Customer can always cancel the Contract in writing without mentioning the reason, as determined in Article 3.2. If the Customer uses CPS, Mobistar considers the Agreement as broken if Belgacom no longer allocates the CPS to Mobistar at the Customer's request.

**18.2.** The Customer has the right to dissolve the contract ipso jure with immediate effect and without prior judicial intervention if:

- c) Mobistar remains in default thirty (30) days after being notified of being in default with regard to his obligations under the contract;
- d) Mobistar has been declared bankrupt or been granted a suspension of payment (this does not include: commencement or acquisition of a court-ratified composition).

Mobistar will be notified in writing of the contract's termination; a motive will be given for the dissolution.

## **19. RELOCATION**

**19.1.** The relocation of a service (i.e. changing the location of the Customer or one of the Customer's sites in cases where there are several) has no impact on the duration of the contract on the condition that the contract has at least 12 months to run at the time of the request for relocation; in other cases the contract is extended by at least 12 months. All provisions in the contract regarding the service(s) supplied by Mobistar remain in force.

**19.2.** The request for relocation must be sent by registered mail and must contain all germane technical information about the Customer's new site or location. Mobistar must expressly approve a request for relocation; in granting approval, Mobistar retains the right to refuse the request for technical, financial or other reasons. This agreement is signed by both parties via a written addendum to the contract.



## 20. ACCESSING THE EMERGENCY SERVICES

The 'Emergency services' cover the emergency services that provide assistance on location or remotely. More specifically, it covers emergency services accessible via a 1XX number or other services accepted as emergency services (such as Child Focus and the Anti-Poison Centre).

With respect to calls made to the emergency services from a landline, Mobistar will pass the address of the telephone installation as listed in the SOF to the emergency services.

In the case of Fixed Telephony with Indirect Access (carrier preselect), the historic operator will be responsible for routing calls made to the emergency services.

If the Customer has connected several sites to a central site or in a data centre via a private network in order to consolidate incoming and outgoing calls via one single access, a problem accessing the correct emergency service cannot be excluded, neither can it be guaranteed that the emergency services will be able to locate the emergency call and identify the caller. In that case, the Customer is responsible for correctly routing calls to the geographically nearest emergency services and in the case of a call made to the emergency services, commits to undertake all the administrative and technical measures necessary to identify the caller via a correct CLI.

The Customer is responsible for ensuring that its business site has a working configuration that allows telephonic communication from a separate telephone connection (either a geographic number not belonging to Mobistar's fixed telephony system, for example, a PSTN Belgacom connection with or without CPS Mobistar, or an extremely reliable mobile GSM type device) with the geographically nearest emergency services, in order to allow the geographically nearest emergency services to correctly identify the call. In addition, the Customer will expressly inform persons likely to make calls to the emergency services that calls made to the emergency services must only be made via the separate telephone connection or by GSM.

## 21. MOBISTAR ACTIONS IN THE CASE OF INCIDENTS AFFECTING SECURITY AND INTEGRITY.

Mobistar commits to equipping the Mobistar IT and telecom network with safeguards designed to minimise the risk of abuse. However, Mobistar cannot exclude all forms of use abuse or abusive use of data. As with other incidents, incidents affecting security and integrity are dealt with by Mobistar's Operations Centre, which monitors incidents 24 hours/7days and, where necessary, requests the assistance of technical experts.

## 22. TRAFFIC MONITORING AND MANAGEMENT PROCEDURES

Upon payment and request by the Customer, a mechanism ('MPLS') can be implemented for an IPVPN, making it possible to attribute a given service with a specific quality of service (example: video priority over mail). For IPVPN and Corporate Internet, access to a Customer's bandwidth usage report tool can be obtained upon payment and Customer request.

## 23. COMPLAINTS AND RESOLUTION OF DISPUTES

**23.1.** If the Customer wishes to submit a complaint, he/she is requested to address this by fax, registered letter or secure mail to Mobistar's Customer Service Department within fifteen (15) working days of the fact that gave rise to the complaint.

**23.2.** The Customer can turn to the Ombudsman for Telecommunication (Boulevard Bischoffsheim 29-35, 1000 Bruxelles, Belgium tel: +32 (0)2/223.09.09 – fax: + 32 (0)2/219.86.59 – email: [plaintes@mediateurtelecom.be](mailto:plaintes@mediateurtelecom.be) – website: [www.mediateurtelecom.be](http://www.mediateurtelecom.be)) that the Belgian Institute for Postal Services and Telecommunications has established by law. Only written complaints are handled. Complaints are only admissible when the Customer demonstrates that he/she has already sought redress from Mobistar. The Ombudsman may refuse to treat a complaint when it relates to facts that took place more than one year prior to the submission of the complaint.

## **24. APPLICABLE LAW AND JURISDICTION**

**24.1.** All disputes on the interpretation or the application of the contract fall under the exclusive authority of the normal Belgian courts.

**24.2.** The provisions contained in the contract are subject to Belgian law.