



# General Terms and Conditions for Telecommunication Services of Freeway AG

Technologiezentrum  
Thomas A Edison Strasse 2  
A-7000 Eisenstadt, Austria

Applicable to closed contracts and contract renewals after 1<sup>st</sup> July 2021



[www.freeway.com](http://www.freeway.com)

# 1 Introduction

Our company has Sustainability and Responsible Practices as key targets. For the purposes of Corporate Responsibility, in the context of this agreement, we are committed to provide as much transparency as possible about the Services we offer.

# 2 The Contract

## 1. How is our commercial relationship regulated?

Our contractual relationship is regulated through:

- a. this General Terms and Conditions,
- b. the special conditions agreed between us,
- c. any written individual agreements and conditions of use for Additional Services

Information about our Terms and Conditions and other special conditions agreed between us can be requested any time either in written or by phone directly from us.

## 2. Contract Effectiveness How does our Contract become effective?

The contract becomes effective through:

- a. The signature of a contract form including all conditions described in our Offer to you
- b. Activation of an Individual Connection (SIM) either through Freeway or through an automated activation process

## 3. At **contract signature** you need to provide evidence of your data (in accordance to the Telekommunikationsgesetz 2003 idF 11/2011 in Austrian Law §92 Abs. 3 Z3 lit. a, b and g):

- a. Your identity (driving license, passport or similar document)
- b. Your bank account details in case payment via Direct Debit applies, and the related authorization
- c. If relevant, characteristics of your company (extract from the Register of Companies, License to Trade, etc.)

## 4. If you are acting on behalf of a third party, then you need evidence of your authorization (e.g. from the Register of Companies, Power of Attorney)

## 5. We can reject your registration by notifying you,

- a. if you are delayed with payments due to us related to a previous or current contractual relationship or
- b. if you have breached essential contractual obligations related to those,
- c. if you have provided incorrect or incomplete information about your person, company, or creditworthiness,
- d. if there is evidence that our services are being abused,
- e. if there are technical or commercial reasons against it or
- f. there are justified concerns about your creditworthiness

6. We would like to point out that our external agents (e.g. resellers) are not authorized to enter into individual agreements with you, which deviate from these General Terms and Conditions.
7. **Notifications relevant to the Contract:** Contractual relevant information will be provided in written.
  - a. Notifications relevant to the Contract will be sent to the last address that you have provided to us
  - b. You can also provide us with an e-mail address specifically for the purpose of sending you notifications relevant to the Contract, including declarations of intent that become complete upon receipt. Clarifications sent by e-mail will be sent to you as soon as they are available. Your right to receive a printed invoice remains unaffected
  - c. If you require to change the way how notifications are sent and/or the provided address, then you only need to provide us with a formal notification. These changes are free of charge.

## 3 Contract Duration

### For how long is our Commercial Relationship valid? What applies in case of an extension of the Contract?

8. Unless otherwise agreed, our Contract is for an unlimited period.
9. In case a Minimum Contract Duration and an Automatic Extension apply, then these are according to our agreed fees detailed in our Offer to you. The Minimum Contract Duration begins with the end of the day on which we make the Service available to you. However, this will not be before we have closed an agreement that includes the Minimum contract Duration.

## 4 Changes

### How can you change the contract? What do you need to notify to us?

10. The following changes are possible:
  - a. Contract Changes (e.g. Additional Services, Change of Tariff) and
  - b. Changes of your basic data (e.g. Address, Name).
11. Contract changes according to Point 10.a of our general terms are only possible with our consent. We reserve the right to apply charges for such contract changes.
12. You will inform us about such change requests in writing (e.g. via Fax or Letter). If you want to inform us about such changes via telephone or e-mail, then we can only accept those if you provide your personal Customer Password. We will provide you with login credentials to

our Self-Administration tool. You are responsible for keeping this information secret and bear the responsibility for unauthorized or improper usage of the login credentials, as long as these are the result of a negligent behavior on your side. You are required to notify us immediately if there is any suspicion of misuse of the login credentials.

13. You will inform us promptly in writing when your basic data, your contact details or credit data change:
- Your Name / your Company,
  - If relevant, your Academic Degree
  - Your Address,
  - Your Contact Details (E-Mail Address),
  - Your Bank Account or Credit Card details
  - Your Creditworthiness

Changes related to your Name, academic degree or your company require an additional proof of your identity as defined in §3 herein.

14. If you do not inform us about Address changes, then you bear any risk related to it. This equally applies if you change the e-mail address that you have provided in relation to this Terms and Conditions. For as long as you do not inform us about the changes, we can continue sending all the Notifications, Acts of Intent, Invoices, etc. to the address and e-mail address that you have provided to us.
15. You can only change your Bank Account details in writing (Letter or Fax).
16. You can change your Credit Card details in writing (Letter or Fax) or via the Self-Administration tool.
17. In case of Contract Changes the new tariffs apply only after the current billing cycle has been concluded.

#### **How can you transfer a contract to others and what needs to be considered?**

18. You can only transfer a contract to others with our written consent.
19. If we agree on the transfer of a contract to a third party, then all rights and obligations are transferred to the third party. You are still responsible for all liabilities related to the time period before the transfer of the contract.

#### **How and when can the Contract be terminated? What needs to be considered?**

20. **Ordinary Termination:** You can terminate a Contract related to these General Terms and Conditions at any time in written form. A one month notice period applies before the effective termination.

The Contract will be effectively terminated one month after you submit the Contract Termination request in a written form.

In case we cannot continue offering your Tariff or Service, we will notify you with 3 months' notice period. You can then choose any other Tariff or Service offered by us to replace the ones we cannot continue offering. In case you cannot decide for any alternative Tariff or Service, then the contract will be terminated at the end of the notice period.

In case we have a Contract with a Minimum Contract Duration (waiver of termination), then the earliest point in time in which the termination can be legally effective is upon the expiration of the Minimum Contract Duration. The agreed Minimum Contract Duration (duration of the waiver of termination) results from:

- a. The Application Form
- b. The Contract Renewal Form
- c. Any Individual Agreement

Any additional Waiver of Termination resulting from a new Minimum Contract Duration begins with the first day of the following month, but not before the first day of the following month after the expiration of the previously agreed Minimum Contract Duration.

21. Unless otherwise agreed, private customers must sign the Contract Termination personally.
22. In the case of Enterprise Customers' the Termination must be signed by a duly authorized representative. In this case, we may require a proof of Authority to Represent.
23. **Exceptional Termination:** You can exceptionally terminate the contract if:
  - a. In spite of requests provided by you in a demonstrable manner, we do not provide our services as contractually agreed, during a period of 2 weeks.
  - b. We apply changes in our General Terms and Conditions or in the Pricing, which are objectively not in your favor.
  - c. Relevant circumstances arise of such nature that continued maintenance of the Contract can no longer reasonably be expected.

You do not need any specific form to terminate the Contract due to changes in our General Terms and Conditions or Pricing that are not in your favor. In this case you can communicate the termination in written to Freeway GmbH or verbally to our Freeway Service Line.

If we change our General Terms and Conditions or Pricing in a way that is favorable to you, then the right of Exceptional Termination is not applicable. In case we change our General Terms and Conditions or our Pricing in a way that is not favorable to you, then we will inform you about the changes at least 1 month before the changes become effective in written:

- d. Either in our invoice to you or
  - e. in any other suitable form.
24. If you do not terminate the Contract before the changes become effective, then the new General Terms and Conditions and Pricing are deemed as accepted by you

25. If you terminate Contractual Relationship before the end of the agreed Minimum contract Duration, then we will invoice you for any outstanding fees until the end of the Minimum Contract Duration including Basic Fees, Subscription Fees and any other applicable fees.

The outstanding fees defined in this Paragraph 25 will not be invoiced in case there exist legitimate circumstances on your side, which entitle you to an Exceptional Termination.

26. You are not entitled to an Exceptional Termination in the following specific changes:
- our Company Name,
  - our Brand or
  - the Ownership Structure of our Company.
27. We can exceptionally terminate the Contract with immediate effect:
- for natural persons in case of: Death or Appointment of a Guardian,
  - for legal persons in case of: Liquidation,
  - if you violate essential contractual obligations,
  - if you do not fulfil your obligation to pay – despite a reminder and a 2-week grace period with the risk of barring or
  - if you use our services in a way that is abusive, harassing or with the intent to cause damage; this also applies to third parties, for which you are liable.
28. Notwithstanding the possibility to unilaterally change the General terms and Conditions, the Service Descriptions and the Pricing, we can also implement changed based on a mutual agreement.

In this case, we will send you a proposal for a consensual contract amendment at least 1 month before the proposed amendments become effective. The proposal will be sent to the address provided by you as defined in Paragraph 3.

We will submit such a proposal at least in written form, for example as a part of an invoice or as an attachment to it. The proposal will include the changes to the General Terms and Conditions, Service Descriptions or Pricing. Even in cases in which we change only a part of a Paragraph, we will send you the complete modified Paragraph. We will also inform you of the date in which the proposed amendments become effective.

If you do not communicate any objection to the new or amended General Terms and Conditions, Service Descriptions and Pricing before becoming effective, then they are deemed as accepted by you. You will be informed about this in our proposal.

In case you object the proposed amendments before the day they become effective (0 hours), then the proposed amendments will not be applicable to you and your existing Contract will continue being in force without the amendments. You can expose your objection for example in written form to Freeway GmbH or verbally to our Service Line. We will notify about the possibility to object in our Proposal for Amendment of the Contract.

## 5 Our Services

### What are the Foundations of our Services?

29. We provide our services according to
- the provisions of these General Terms and Conditions,
  - the general Pricing conditions – as a part of these General Terms and Conditions,
  - the special fees for your Tariff agreed during your registration
  - any written agreements and
  - special Terms of Use (only in case of Additional Services or Options)

in reverted order, meaning that later mentioned documents in the above list have preference over the previous ones.

30. **Quality of Service:** The information about the service quality is provided within the Tariff Sheet. There you will find information about any limitations related to the access and usage of the services.

It needs to be noted that there may be additional limitations related to the capabilities of the devices that are used to access the services. The quality of the services can be further affected by:

- The type of device that is used,
- The type of networks that is accessed (e.g. UMTS, GSM),
- The load on the accessed network,
- The chosen Tariff and Options
- Conditions related to the Radio communication.

Certain Quality Parameters cannot be guaranteed. Nevertheless, we will make every effort to provide the best possible connectivity.

31. **Emergency Call Services:** Calls to Emergency Services, including the European 112 Emergency Number, can be made without any related cost. Emergency Calls can be made also without enough funds or credit. When an Emergency Call is made Emergency Organizations can determine from which location the Emergency Call is made and which number is being used.

## 6 SIM Cards Exchange

### What needs to be done in case a SIM Card is defect or when it is stolen? What is your responsibility?

32. Upon your request, we will exchange SIM Cards in case that:
- It was defect when provided to you
  - It was stolen. A police theft report needs to be provided as proof.

## 7 General Liabilities

33. Your and our claims of Liability, Damages and Warranties are in accordance with the applicable legal provisions.
34. Neither Party shall have any liability towards the other Party arising from or in connection with this Agreement, any order or the performance, non-performance or purported performance of this Agreement or any order, whether in contract, tort or otherwise, except as stipulated in this Agreement.
35. Toward Companies that in case of an incident several customers are affected at the same time, our liability is against a single person is limited with €150, against the aggregate the liability is limited to €150.000. In case that the entire damage exceeds €150.000, the liabilities for the individual will be reduced accordingly.
36. Under no circumstances are Parties liable to each other for slight negligence or any form of indirect or consequential damage, including but not limited to loss of data, loss of business, turnover or profits, loss of interest as well as resulting claims of third parties.
37. The limitation of liability as referred to in the above paragraphs does not apply if damage is the result of willful intent or deliberate recklessness on the part of either Party and/or its executives.
38. Damage should be reported in writing as soon as possible, but ultimately 10 (ten) working days after it could reasonably have been discovered. Damage not reported to the other Party within this period does not qualify for compensation.

## 8 When can we Suspend the Service

39. We can suspend the service without further notice either partially or totally, when:
  - a. You are delayed with your payments despite our reminders and our notification of the possibility of a service suspension, with a grace period of 2 weeks
  - b. There is alleged fraud or misuse of the services
  - c. There is the suspicion that the services are used for purposes against the Law or to violate any personal rights
  - d. You do not provide the needed pre-payments or guarantees,
  - e. We are required to do so by contracts with our roaming partners or requests from competent authorities
  - f. You violate essential provisions of this contract
  - g. You have provided wrong or incomplete information about your person/company or your credit worthiness
  - h. Purposefully you withhold information about changes in your basic data
  - i. Your financial situation has demonstrably deteriorated or is in danger to deteriorate



- j. Our services are used in a highly unusual way: this means that your current but not yet due fees are at least twice as high as your average monthly fees.
- 40. Upon your request, we will justify any suspension of service. If the Suspension of Service is justified by a deliberate change of behaviour on your side, then you must pay all fees due before and after the Suspension of Service as agreed, in special: k) All basic fees, package fees and minimum commitments and l) All charges actually incurred
- 41. We will lift the Suspension of Service immediately after the reasons for the suspension have ceased to exist.

## **9 The purpose for which we use your Data. What we do to Protect your Data.**

- 42. We have implemented technical and organizational measures to react to incidents, threats and vulnerabilities related to Security and Integrity of Data. Examples of these measures are:
  - a. We check our technical equipment for security vulnerabilities on a regular basis.
  - b. We continuously collect information about vulnerabilities discovered by third parties or ourselves. We use this information to prevent potential security problems.
  - c. We monitor our installed equipment 24 hours, 365/366 days per year. Based on this we can react to Security or Integrity violations any time. d) We inform you about any Security or Integrity violations affecting your data. In case we find that the Security or Integrity of your data has been violated we will inform you personally by letter, telephone, SMS, E-Mail, Fax or any other means.
- 43. We store and process your Basic Data and Traffic Data
  - a. Which you have provided to us and
  - b. Which has been provided to us or generated by us (Data according to § 92 Telekommunikationsgesetz 2003 in the version 11/2011 in Austrian Law).
- 44. We use your Basic Data and Traffic Data only for
  - a. Our Services and related services to those,
  - b. Marketing and promotional purposes,
  - c. Assessment of Needs, Development and Planning of our Infrastructure,
  - d. Improvement of our Solutions and Offering of Telecommunication Services,
  - e. Deliver information to Emergency Services and
  - f. Deliver information due to Legal Obligations.
- 45. You may revoke your permission to points 44 b), c), d) at any time.
- 46. Your Master Data, for the protection of creditors, may be communicated to creditor protection associations and in case of a qualified delayed payment (after two unsuccessful reminders) to a debt collection institute. For the settlement of payments, we transfer your Basic Data to the financial institution, which you have provided to us within your Bank

Account Details and to our own Bank. We will communicate to you any changes related to our own Bank within our invoices.

47. In any other case, we only provide your data to third parties with your permission.
48. We will erase your Master Data at the end of our contractual relationship with you. However, this does not apply in the case that we need this data to calculate charges, to handle complaints or to fulfil any other legal obligations.
49. You retain your statutory rights of access, rectification and deletion of your data stored by us.
50. You inform all your authorized users of your SIM Cards that we measure, process and store Traffic Data in line with the applicable legal requirements.

## 10 Processing of Personal Data

51. We process data of our Customers on the legal basis of the GDPR (DSGVO, TKG 2003).
52. The Parties undertake all necessary efforts to comply with the regulations of the GDPR and in case of Freeway GmbH also in relation to the Telekommunikationsgesetz Austrian Law in the current edition.
53. Customer has to inform us in due time in case that the processing of data is not in line with legal requirements of the GDPR.
54. In case that personal data will be processed, and that the Customer has provided her consent, the processing of data will be done in accordance to legal requirements.
55. We have implemented technical and organizational measures to react to incidents and vulnerabilities related to Security and Integrity of data.
56. The Customer has the right to receive information, correction, deletion, restriction and withdrawal. We will after consultation and consent with our Customer undertake any correction, erasure and blocking of data. In case we cannot comply to this request and are not contractually authorized, we will forward this request to the authorized person.

## 11 Your Responsibility

**You need to consider in general terms that:**

57. We can
  - a. Suspend the Service at any time,

- b. Cancel the contract and
- c. Claim for damages,

if, without a written agreement with us, you use the Services for commercial purposes – especially for the sale of Telecommunication services (for example by using a GSM gateway or circumventing the interconnection), or in any other abusive manner.

58. It is your obligation to refrain from and prevent any abuse of our Services – especially intimidating or harassing Calls, SMS, MMS or Fax messages (according to § 78 Telekommunikationsgesetz 2003 idF 11/2011 in Austrian Law).
59. You are responsible for ensuring that children and young people do not have access to services, which require a minimum age (for example adult content or gambling).

**When third parties use the Services, you need to consider that**

60. You are responsible for preventing that the Services are abused by third parties.
61. When a SIM Card is lost, you must inform us immediately.
62. When third parties use your SIM Cards and your Codes to use the Services then you are liable for all charges related to the Service until you instruct us to suspend the Service related to those SIM Cards and Codes.
63. You bear all disadvantages if
- a. You or other third parties abuse the Service
  - b. We incur disadvantages caused by a representative of yours, improper safekeeping or usage.

## 12 Payment Terms

**What will we invoice you for?**

64. All fees will be charged in accordance with agreed the rates, which apply to the Service.
65. The invoicing of the fees may be delayed due to technical reasons. In such cases we will invoice those with a maximum delay of 3 (three) months.
66. In addition to the monthly fees related to Telecommunication Services, we can also invoice other services in the same invoice, such as additional Freecenter platform fees, value-added services or similar.
67. Due to technical reasons it may be that we need to run different billing cycles. It is therefore not possible to commit to a specific billing period.

### What to do when you have objections to your invoice?

68. If you have objections to your invoice you can notify us about those in written form within a period of 14 days after the date of issue of the invoice. If no objection is made within that period, then the invoice is deemed as accepted by you. After the period you can only make objections in a court of law.
69. If your objections are notified in written within the 14 days period but are in our opinion unfounded, then we will provide you with a reasoned statement about it.
70. After the 14 days period expires, our invoice is regarded accepted by you and you lose the right to raise objections; we will inform you about this in our reasoned statement.

### Payment deadline:

71. We invoice our services on a monthly basis. Special rates for your tariffs can be invoiced on a different basis, but not later than 3 months after conclusion of the billing cycle.

During your registration process you can choose whether you want to receive your invoice in an environmentally friendly via E-Mail or printed. A printed invoice will be sent in any case without additional cost. You can also choose between receiving an E-Mail or printed invoice during the duration of our contractual relationship.

72. Following Services will be invoiced at the moment in which you submit your registration and/or purchase order:
  - a. A one-off fee per SIM card/chip activation
  - b. Other one-off fees in accordance to paragraph 64.
73. If you pay with a credit card, we will invoice any fixed fees (the ones that do not depend on actual traffic usage) in advance. The dates the billing cycle may not be fixed. We will inform you about the actual billing cycle dates after the closure of the contract.
74. You pay for all other Services after we
  - a. Have provided the Services and
  - b. Have provided an invoice.
75. You are required to pay the fees stated in the invoice within 1 week of the invoice date or within the contractual agreed payment terms.
76. **Late Payment / Debt Collection:** If you are delayed with your payment you will get a payment reminder from us. For this we will charge you the incurred costs, which are necessary, appropriate and reasonable.

If the reminder does not lead to a settlement of the open invoices, we are entitled to hire at your expense a Debt Collection Institute or a Lawyer to collect the debt.

77. **Late payment interest Companies:** If you or we deviate from our agreed contractual commitments a default interest of 12% per annum applies. In case that you have raised timely objections under these Terms and Conditions and your objection was unjustified, then we will only charge the legal interest rate. The agreed interest rate will not be settled via credit card, but via a dedicated invoice.
78. **Late payment for Consumers:** for Consumer the interest rates provided by the applicable law will be applied.
79. If in doubt, we will use your payments to offset your oldest debts to us.

### How can you pay? When and how can you change your methods of payment

80. In principle you can use the following methods of payment:
- A Credit Card accepted by us and in case this payment method is provided in our Portal,
  - A debit authorization through a bank (European Direct Debit Scheme)
  - A bank transfer (SEPA)

81. We can inform you during the registration process about the payment methods available.

For any direct debit under your responsibility that is not realised or is returned unpaid we will charge you for administration cost according to the general Payment Terms. This does not apply when the failure to pay is related to a founded objection.

In case of a returned unpaid direct debit we may change your method of payment to a Pay Slip / Bank Transfer; for this charge we will charge you for administration cost according to the general Payment Terms

82. Any fees from you bank will be further invoice to you in full.

## 13 Final Provisions: Important Information to these Terms and Conditions

### Final- and Transitional Provisions:

83. Austrian Law applies with the exclusion of non-mandatory rules and regulations governing conflict of laws (IPRG, UNKR).
84. If you are a Consumer as defined by the § 1 Konsumentenschutzgesetz (Consumer Protection Act, Austrian Law), then we can only put forward claims against you at the Court of Law responsible for your place of residence. If you want to put forward claims against us, then these shall be brought to the court in 7000 Eisenstadt/Austria having subject-matter

jurisdiction. Regardless of this you can also bring actions to any other permissible place of jurisdiction.

85. In case of disputes or complaints, customers and their representatives can appeal to the competent Telecommunication Services Regulator body in 1060 Vienna, Mariahilfer Strasse 77-79, especially when:

- a. There are alleged quality deficiencies in our Services,
- b. There are payment disputes,
- c. There are alleged violations of the Telecommunications Law.

86. All costs related to your legal representation are to be borne by yourself.

**Changes in legal structure:**

87. Freeway may at any point in time transfer the contract to a successor organization. This fact or any change in the brand-name shall not lead to a termination of the Agreement that is based on its commercial proposal and its content.

## 14 Where to turn to in case of Questions

In case of questions related to our products and services as well as in case of service degradation we are going to provide you under [www.freeway.com](http://www.freeway.com) the actual information.

Furthermore, we will respond to and answer your questions and requirements via our customer contact form on our portal and via our service desk.

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