



General Terms and Conditions Issued 01.01.2021 - v. P002

applicable to payment by invoice

These General Terms and Conditions apply to payment by invoice with SWISSBILLING SA ("SWISSBILLING" or "SWB") which has its registered office at Rue du Caudray 4, CH-1020 RENENS. By choosing this method of payment, the client accepts these General Terms and Conditions.



A. What is the SWISSBILLING payment by invoice solution?

- 1.1 **A payment solution.** SWISSBILLING is a payment solution which allows payments for purchases online or off-line, by invoice, in one or more installments.
- 1.2 **Based on assignment of a receivable.** Legally, payment by invoice with SWISSBILLING corresponds to assignment of a receivable from the service provider to SWISSBILLING: the role of SWISSBILLING is limited to collection of payment of the price of the service. As the invoice (the assigned receivable) has been assigned to SWISSBILLING, payment should be made only to SWISSBILLING. A client who pays the provider directly for the invoice does not validly clear the debt and runs the risk of having to pay the invoice twice!
- 1.3 **The service provider is still the client's main point of contact.** The service provider's obligations, in relation to the contract of sale or any other obligations related to the order, are completely unaffected. Clients should therefore put any questions or problems relating to the performance of the agreed service to the service provider, whether these are about delivery, return of goods, the quality of the order, performance of the service, or anything else.

B. Who can use the SWISSBILLING payment solution?

- 2.1 **Credit check.** For reasons of security, risk management and to prevent over-indebtedness, the option to pay by invoice is subject to SWISSBILLING's internal checking process. This is based mainly on automated IT processing. As part of the process, SWISSBILLING checks the client's *identity, address, creditworthiness* and that the *payment limit* is not exceeded. Under no circumstances is SWISSBILLING obliged to accept a request for payment by invoice to or give reason for its decision. This being the case:
 - Those whose *address* does not appear in the usual databases, in particular those of the Swiss postal service or CRIF AG in Zürich, may not use the SWISSBILLING solution. They should approach CRIF AG in Zürich (www.crif.ch) to have their address updated.
 - The credit check takes account in particular of SWB's payment experience and of data from the CRIF AG database in Zürich (www.crif.ch). In the event of any questions about the information contained in the CRIF AG database, the process shown on the CRIF AG website should be followed.
- 2.2 **Requests for explanation.** Clients may submit requests for explanation of the refusal of a transaction by SWISSBILLING to the following address: support@swissbilling.ch. They will be asked to provide proof of identity to ensure protection and confidentiality for the required information. A reply will generally be provided within 15 days.

C. What does SWISSBILLING charge the client?

- 3.1 **Invoicing and postal costs.** SWB may invoice the client for invoicing costs i.e. a charge per invoice, as a percentage of the order and/or a fixed charge. The amount of these charges is declared, in a clear and appropriate manner, as part of the checkout process. They may vary depending on the invoicing method chosen (email or post).
- 3.2 **Charges for payment in up to three installments and transactions worth less than CHF 500.00.** When SWISSBILLING offers the option to pay in several installments, each payment may, depending on the service provider's conditions of contract, attract additional administrative charges. The amount of these charges is declared, in a clear and appropriate manner, as part of the checkout process.
- 3.3 **Charges for duplicate copies and address searches.** For any request for a duplicate paper copy of an invoice, SWB will charge at the client at least CHF 5.00. If the address provided by a client at the time of the order is not or is no longer valid, SWB also has the right to invoice CHF 25.00 for an address search.
- 3.4 **Charges for reimbursement.** Reimbursements to the client give rise to a processing charge of CHF 25.00.

D. What happens if payment is late?

- 4.1 **Notice to pay.** Invoices payable to SWISSBILLING should be paid by the due dates shown on the invoice or the agreed due dates for payment by installments. If payment is not made by the due dates, the client is put under notice to pay. This step is necessary for SWISSBILLING to proceed to a formal order to pay.
- 4.2 **Charges for reminders.** Clients under notice to pay must pay SWISSBILLING for the cost of reminders. Reminders are charged at CHF 20.00 for the first reminder and CHF 20.00 per additional reminder. If the invoice is for payment in several installments, a delay in payment of one of the agreed installments leads to the remainder of the invoice becoming payable immediately: the principal sum, charges and interest.
- 4.3 **Charges for a payment plan.** When a client asks SWB for a payment plan (payment of an invoice extended beyond the due date(s) originally agreed), SWB may invoice administrative costs of CHF 5.00 per monthly payment for amounts under CHF 750.00. For amounts over CHF 750.01, SWB will invoice administrative costs of at least 2% of the total amount of the invoice.
- 4.4 **Charges for recovery.** If the invoice is not paid on the due date(s) specified, SWISSBILLING may assign the task of recovery to a third party and has the right to assign the receivable(s) relating to the invoice in question to the said third party. In the event of transfer to a debt collection agency, the client will be subject to the following charges for processing the recovery, set in accordance with the recommendations of the Association Suisse des Sociétés Fiduciaires de Recouvrement [the Swiss association of collection companies] (www.inkassoverband.ch/fr/):
 - Charge of CHF 50.00 for an invoice up to CHF 49.00;
 - Charge of CHF 80.00 for an invoice from CHF 50.00 to CHF 499.00;
 - Charge of CHF 150.00 for an invoice from CHF 500.00 to CHF 999.00;
 - Charge of CHF 200.00 for an invoice from CHF 1,000.00 to CHF 1,999.00;
 - Charge of CHF 300.00 for an invoice from CHF 2,000.00 to CHF 4,999.00;
 - Charge of CHF 500.00 for an invoice from CHF 5,000.00 to CHF 9,999.00;
 - Charge of 6% for an invoice above CHF 10,000.00.

In all cases, SWISSBILLING reserves the right to invoice, additionally, late payment interest of 8% per year, any additional damages, and legal expenses (for debt recovery or other).

- 4.5 **In the case of identity theft.** When a client reports that someone has performed a transaction using the client's identity, without his/her consent, it is the client's responsibility to file a complaint of a criminal offense with the relevant authorities, or to clearly prove the abuse of identity, with documentary evidence. The client should then send SWISSBILLING a copy of the criminal complaint, the police report or other proof of abuse of identity for the invoice in question. On receipt of these documents from the client, SWISSBILLING may decide to suspend its claims until the legal outcome of the criminal complaint is known.
- 4.6 **In the case of fraud or other criminal behavior.** The SWISSBILLING payment by invoicing solution should be used in good faith. A client should not use it if he/she knows, or could or should have known by paying a minimum of attention, that he/she would not be able to pay the invoice for the transaction by the due dates agreed. Likewise, a client does not have the right to use different identities to place an order with SWISSBILLING. Such behavior constitutes an offense subject to criminal penalties. The same applies when an order is simply attempted and refused by SWISSBILLING. It is SWISSBILLING's practice to report this type of case immediately to the relevant criminal authorities, without further question.

E. Data protection and protection of professional secrecy

- 5.1 **SWISSBILLING** complies with applicable laws and regulations on protection of personal data, in particular the Federal Act on Data Protection (FADP).
- 5.2 **By selecting the SWISSBILLING payment by invoice method, the client accepts that his/her personal data** (in particular: first and last name, street, house number, postal code, place and date of birth, telephone number, basket of goods, order history, payment experience, and IP address) **will be accepted by SWISSBILLING** in accordance with its privacy policy (see 5.3 below). The concept of "processing" covers all management of personal data, such as its collection, recording and transfer to a third party and/or abroad.
- 5.3 **SWISSBILLING's Data Protection Privacy Policy** contains detailed information on the way in which SWB processes personal data. The policy is published on the website www.swissbilling.ch. A copy may also be obtained by contacting the support service, support@swissbilling.ch, or the service provider or by sending an email to legal@swissbilling.ch. Clients' rights in this respect are also set out in the *Privacy Policy*.
- 5.4. In substance, **SWISSBILLING processes a client's personal data to the extent that they are necessary for the acceptance and management of its payment by invoicing service**, in particular for the recovery of invoices, management of the business relationship with the client, performance of the agreed services, agreement of contracts, to reply to the client's questions, for purposes of evaluation, improvement and development of new products and for the services, functions and legal and regulatory obligations of SWISSBILLING, CEMBRA MONEY BANK AG and companies in the CEMBRA MONEY BANK AG group. As part of this, in order to decide whether to accept or reject requests for payment by invoice submitted to it, SWISSBILLING undertakes a computerized assessment using data related to the client and the order. The data used may come from data provided by the client, from its own database and/or from third parties with which SWISSBILLING has a contractual relationship. SWISSBILLING may check the client's creditworthiness using a specialized database and/or the Debt Recovery Office and/or by any other lawful means.
- 5.5. In compliance with applicable data law and regulations, in particular the FADP, and with those related to the protection of professional secrecy, and provided that you give your consent, **SWISSBILLING, CEMBRA MONEY BANK AG, and companies in the CEMBRA MONEY BANK AG group have the right to process, transfer, develop and use the personal data collected (e.g. in invoices processed) on their own behalf or for a third party, for the purposes of analysis of quality and/or efficiency, full and efficient monitoring, and/or for commercial and marketing purposes.** In particular, SWISSBILLING has the right to provide the client with information on products and services offered by SWISSBILLING, CEMBRA MONEY BANK AG companies in the CEMBRA MONEY BANK AG group and selected commercial partners. SWISSBILLING may use third parties to send out such information. SWISSBILLING ensures that data processors and those who receive personal data are subject to the corresponding obligations of confidentiality and data protection.
- 5.6. **Release from professional secrecy.** In signing the SWISSBILLING invoicing agreement, the client accepts that the service provider will send SWISSBILLING certain detailed information related to the invoicing of its services. The information may include details on the services delivered, the names of the parties, the name of a place, etc. When a client signs an invoicing agreement with SWISSBILLING, he/she therefore accepts that information that may be subject to professional secrecy may be sent to SWISSBILLING and that the service provider should be released from its obligation of professional secrecy for the invoicing of its services.

F. Exclusion of liability

- 6.1 SWISSBILLING, its employees or its agents cannot generally be held liable for any damage arising from the services delivered, except in the event of gross negligence or unlawful intent in the meaning of Article 100 (1) of the Swiss Code of Obligations, particularly in the event of refusal of acceptance or the unavailability of its service to carry out an order.

G. Miscellaneous

- 7.1 **Prohibition of compensation.** Invoices due from the client to SWISSBILLING may not be compensated by claims from the service provider.
- 7.2 **Changes to the General Terms and Conditions.** SWISSBILLING may change these General Terms and Conditions at any time, provided it gives notice by email to the address specified at the time of the transaction. In the absence of an objection in writing from the client within 30 days of dispatch of the notification, the changes will be deemed to have been accepted.
- 7.3 **Applicable law and jurisdiction.** In the event of a dispute, only Swiss law will apply. Jurisdiction lies with the courts of Lausanne (Switzerland).
- 7.4 **If the client has any questions,** he/she can contact SWISSBILLING SA at Rue du Caudray 4, CH- 1020 Renens.

Date:

Date and signature of the client

