

**GENERAL CONDITIONS for the Long Distance Telephone Service of
SMITCOMS NV.**

Article 01. DESCRIPTION OF CONCEPTS	2
Article 02. General Stipulations	4
Article 03. Application and acceptance of a connection	4
Article 04. Putting into service and changing connections and Additional Services	5
Article 05. Property and protection of Services	6
Article 06. Number assignment and number retention	7
Article 07. Telephone Directory	7
Article 08. Moving house	8
Article 09. Changes in the characteristics of Long Distance Telephone Service or a Telecommunication Network	8
Article 10. Use	9
Article 11. Maintenance and Interruption	9
Article 12. Liability of SMITCOMS	10
Article 13. Liability Contracting Party	11
Article 14. Charges	12
Article 15. Payments	12
Article 16. Arrears in payments	13
Article 17. Security	14
Article 18. Disuse of the service	14
Article 19. Access, Tolerance	15
Article 20. Supply of information	16
Article 21. Use and Processing of (personal) data; protection of the personal sphere of life	16
Article 22. Length of the Agreement	18
Article 23. Transfer of Contract	19
Article 24. Complaints and disputes	19
Article 25. Applicable law	19
Article 26. Period of limitation	19
Article 27. Changes in Conditions and Rates	20

01. DESCRIPTION OF CONCEPTS

In these General Conditions the following concepts have the meaning as indicated. Defined concepts are indicated in the text with a capital.

Connection:	the possibility to use the Long Distance Telephone Service including the Services necessary for that.
Additional Services:	special telecommunication-possibilities offered in connection with the Long Distance Telephone Service related to routing, connection-build-up, saving or processing of data.
General Conditions:	the present general conditions for the Long Distance Telephone Service of SMITCOMS.
Contracting Party:	the person who entered into an agreement with SMITCOMS
SMITCOMS:	the limited liability company SMITCOMS nv
Month:	unless it can be concluded from the context that a full calendar month is meant, a continuous period until the same date in the next calendar month.
Network Connection Point:	A terminal point from the fixed Telecommunication Network of SMITCOMS, which is meant to connect Peripherals.
Agreement:	An agreement on which basis SMITCOMS delivers and maintains Connections
Peripherals:	Machines which are meant to be connected directly or indirectly to a Network Connection Point, for the purpose of transmitting, processing or receiving of information.
Service Guarantee:	A level of service, specified by SMITCOMS for certain subscription types of the Long Distance Telephone Service, for which specifically the terms, to be indicated on the basis of articles 4.2 and 11.9 of these General Conditions, are guaranteed concerning execution, service and/or complaint-settlement.
Telecommunication Network:	The apparatus and other technical means which enable the transportation and routing of signals between Network Connection Points, via cables, radio-waves, optic means or other electro-magnetic means.

Service Tenderer:	A natural or legal person who offers telecommunication services, which fully or partly exists of the transportation and routing of signals over the telecommunication-infrastructure of SMITCOMS
Long Distance Telephone Service:	The service concerning the direct transport of speech, in which a user can build-up a connection from a connection point on the fixed telecommunication-infrastructure with a connection point or with a mobile user of his choice in another Island Territory or in another Country. Long Distance Telephone Service also means the service, in which a mobile user can build up a connection with a connection point on the fixed telecommunication-infrastructure or with a mobile user, in another Island Territory or another Country. Long Distance Telephone Service does not mean the traffic between mobile users of an integrated network which includes more Island Territories.
Services:	Parts of the fixed Telecommunication Network of SMITCOMS, which includes cables, machinery and Network Connection Points, which are used by SMITCOMS for the Long Distance Telephone Service.
Traffic Data:	Data concerning telephone traffic, such as starting time, length and finish time of a call, number of the called Connection and – when forwarding – numbers of the forwarded Connections.
Working Days	Monday to Friday, with the exception of the holidays generally excepted in the Netherlands Antilles.
Other Concession Holders	Concession holders for the local* and/or mobile** telephone service for the service area of Sint Maarten

*Local telephone service means the service related to the direct transport of speech between connection points on the fixed telecommunication-infrastructure within an Island Territory, in which a user can build up a connection from a connection point to a connection point of his choice. Local telephone service also means the service, in which a user can build-up a connection from a connection point with the user of his choice of a mobile machine in the same Island Territory.

**Mobile telephone service means the service related to the direct transport of speech between mobile users via a mobile telecommunication-infrastructure within a service area, in which the mobile user can build up a connection with a mobile user of his choice within the same service area. Mobile telephone service also means the service in which a mobile user within the Island Territory in which he is, can build a connection with the connection point of his choice on the fixed telecommunication-infrastructure within the same Island Territory.

02. General Stipulations

2.1. SMITCOMS delivers the Long Distance Telephone Service including Additional Services. Additional Services may be made available by SMITCOMS on separate conditions and against rates to be made known.

2.2. SMITCOMS will exert oneself to make the service as smoothly as possible. It is technically impossible, though, to prevent each interruption or limitation of the service. Interruptions or limitations of the service will be solved by SMITCOMS as soon as possible taking into account the stipulations in the General Conditions. Liability for the non-functioning or not-well-functioning of the service only exists between the boundaries of article 12 in the General Conditions.

2.3. The Long Distance Telephone Service and Additional Services are offered on a Network Connection Point of Other Concession Holders on the location which will be agreed with the Contracting Party. All machinery and cabling from the Interconnection point between the Telecommunication Network of SMITCOMS and that of Other Concession Holders and all machinery and cabling which is necessary for the use of the Long Distance Telephone Service and Additional Services from the Network Connection Point, falls outside the responsibility of SMITCOMS based on the Agreement. These General Conditions are not applicable for that.

2.4. In these General Conditions the most regular situation is assumed, in which SMITCOMS offers the Long Distance Telephone Service and the Additional Services via a Network Connection Point delivered by Other Concession Holders. For subscription types of the Long Distance Telephone Service and Additional Services where a similar connection point delivered by another Service Tenderer, is used, these General Conditions are equally applicable. The additional conditions which are valid in such a case, will be mentioned with the offers in question.

03. Application and acceptance of a connection

3.1. A connection is applied for by entering and signing of a form which is meant for that, unless another way of application is agreed upon. SMITCOMS will offer an applicant a copy of these General Conditions, or send him, at his request, a copy for free.

3.2. The applicant must identify himself in a way to be indicated at the request of SMITCOMS, and also supply other necessary data for the judgement of the application by SMITCOMS.

3.3. For an application (also) on behalf of another natural person or on behalf of a legal person or company, the representative must identify himself at the request of SMITCOMS in a way to be indicated and show his representative's power, if possible by means of a recent excerpt of a register, held by the Chamber of Commerce.

3.4. The Agreement commences on the date of receipt of the written confirmation of SMITCOMS that the application is accepted, unless otherwise agreed.

3.5. The application can be refused by SMITCOMS if:

- a. the applicant is commercially incapable, or if he has not shown the requested data as meant in the second paragraph of this article within a period determined by SMITCOMS;
- b. an applicant does not meet an obligation as stipulated in these General Conditions and that not-meeting justifies the refusal, or if it is plausible that he cannot meet such an obligation;
- c. the applicant does not meet financial obligations based on the agreements with SMITCOMS or Other Concession Holders and other Service Tenderers for the Long Distance Telephone Service.

SMITCOMS will motivate the refusal of the application.

3.6. SMITCOMS will, unless otherwise agreed, inform the applicant within ten Working Days after receipt of the application, in writing, if the application is accepted and, if this is the case, when the Connection will commence. If it is not possible for SMITCOMS to react in reasonableness within that period, SMITCOMS will give the reason for this and indicate to the applicant within which period SMITCOMS will react to his application.

3.7. If in anticipation of the acceptance, the Connection is put into service, this putting-into-service is valid as a conditional acceptance. SMITCOMS then still has a right to end the Agreement if one of the circumstances as meant in the fifth paragraph occurs. SMITCOMS may determine a period within which the conditions, to be stipulated therewith, have to be met. If the Agreement is annulled, the applicant is indebted for the periodical charges, as meant in article 14, paragraph one, for the period that the Connection was in service, as well as all fees resulting from the use of the Long Distance Telephone Service and Additional Services.

3.8. The stipulation in the previous paragraphs is of equal applicability to the applications of Additional Services or for changes of a Connection, as far as there was no deviation in the offering of those services or for the change in question.

04. Putting into service and changing connections and Additional Services

4.1. If that which is necessary for the putting into service of a Connection, is present and available, the Connection will be put into service as soon as possible, but in each case within one Month after the date of commencement of the Agreement, unless otherwise agreed.

4.2. For subscription types for which SMITCOMS gives a Service Guarantee in addition to these General Conditions, the periods mentioned in that Service Guarantee are valid in deviation of the first paragraph. If a Connection is not realised within the period mentioned in the Service Guarantee, the Contracting Party has a right to the amounts, indicated in the Service Guarantee, as a compensation.

4.3. If that which is necessary to put a Connection into service, is not present or available, SMITCOMS will build this within the period which will be communicated at the confirmation of the acceptance of the application. This period will not be more than 12 Months after the commencement of the Agreement, unless otherwise agreed.

4.4. SMITCOMS will consider reasonable wishes of the Contracting Party where possible when building the Services on the agreed location. If necessary works at the location cannot be done undisturbed, or if necessary cooperation by or on behalf of the Contracting Party is not given, SMITCOMS is not liable for the delay which results from that.

4.5. As long as the Connection has not been concluded to execute the Agreement, the Contracting Party can cancel the Agreement fully or partly. In that case the Contracting Party has only to pay a non-recurring amount due as meant in article 14, first paragraph, or another amount which was mentioned by SMITCOMS preceding the commencement of the Agreement.

4.6. The stipulations in the previous paragraphs are equally applicable for putting into service Additional Services and for changes of a Connection, unless deviating periods were mentioned for that.

4.7. For a conditional acceptance as meant in article 3, paragraph seven, SMITCOMS may make limitations in the service, for instance by blocking certain destinations for which above-average rates are valid, until the application is definitely accepted.

05 Property and protection of Services

5.1. The Agreement does not serve as any transfer of property of Services, with which SMITCOMS puts the Connections into service.

5.2. The Agreements does neither serve as a transfer of intellectual property-rights which are used by SMITCOMS in connection with the execution of the Agreement, such as concerning software made available and user-documentation belonging to the Services.

5.3. The Contracting Party receives a non-exclusive and non-transferable right to use possible software and user-documentation belonging to the Services for the length of the Agreement, as far as necessary to be able to use the Long Distance Telephone Service and/or Additional Services.

5.4. The Contracting Party must ensure as a good husband, that the Services on the agreed location are treated carefully.

5.5. If thirds parties want to make a claim to or take measures such as confiscation in relation to Services at the agreed location, the Contracting Party must inform them immediately about SMITCOMS's rights. The Contracting Party must inform SMITCOMS immediately about this.

5.6. The Contracting Party must ensure that there is a place available for the Services on the agreed location, which is dry and free of vibrations and which offers protection against harmful influences.

5.7. The Contracting Party has not the right to make changes to the Services himself or move them, or let others than SMITCOMS make changes or move them, except with consent of SMITCOMS.

5.8. The Contracting Party will leave the type-numbers, serial numbers, logos and/or other marketing means, put on the Services, as is.

06 Number assignment and number retention

6.1. For the use of a Connection the Contracting Party must have one or more numbers. Other Concession Holders will assign one or more numbers to the Contracting Party, which number(s) is (are) also valid as the assigned number(s) for the use of the Long Distance Telephone Service and/or Additional Services.

6.2. In case Other Concession Holders change the number of the Contracting Party, the changed number is also valid as the assigned number for the use of the Long Distance Telephone Service and/or Additional Services.

6.3. In case, at the request of the Contracting Party, Other Concession Holders have decided, at the conclusion of an agreement made with Other Concession Holders, to take along a number used for the Connection to a Connection with another Service Tenderer, this number will be retained for the Contracting Party as the number assigned for the use of the Long Distance Telephone Service and/or Additional Services.

07 Telephone Directory

7.1. To promote the accessibility to the telecommunication-service, Other Concession Holders offer the Contracting Party the possibility to be mentioned once per edition in a telephone directory or to be entered in a number information service. If the Contracting Party uses this right, SMITCOMS has the right to use the number of the Contracting Party, as entered in the telephone directory or number information service, for a requested connection build-up from the other islands of the Netherlands Antilles or from abroad.

7.2. SMITCOMS is not liable towards Contracting Party for number- or address data which are entered wrongly in the telephone directory or for the lawful use of it.

7.3. SMITCOMS is obliged to maintain files of numbers of subscribers abroad directly accessible, in such a way that within a reasonable time the trunk or international connections requested by Contracting Party can be made. SMITCOMS is not bound to this obligation in all cases in which, due to the activities or the failure of network managers on other islands of the Netherlands Antilles or abroad, it is made impossible to obtain the numbers and/or to build up the requested connection.

08 Moving house

8.1. If the Contracting Party moves and/or his invoice-address changes, he must, preceding to that, inform SMITCOMS of his new residence or place of abode or place of establishment and/or new invoice address, in writing, as soon as possible.

8.2. To the moving of the Connection itself the stipulations in articles 3 and 4 are applicable.

09 Changes in the characteristics of Long Distance Telephone Service or a Telecommunication Network

9.1. The technical characteristics of the Long Distance Telephone Service, or of an Additional Services or of the Telecommunication Network of SMITCOMS may be changed by SMITCOMS to be able to keep up with the demands of time and the status of the techniques.

9.2. Where possible SMITCOMS will try to execute the changes, as meant in the first paragraph, without it having consequences for the possibilities of use of the Contracting Party and the Peripherals used by him. If that is not possible and a change has reasonably predicted financial consequences for the Contracting Party, the changes will not occur earlier than 3 months – or as much longer as is reasonably possible – after these are made known.

9.3. Besides the stipulations of the second paragraph, SMITCOMS has the rights to annul (a subscription type of) the Long Distance Telephone Service or an Additional Service, taking into account a period of notification of at least three Months, if technical or business-economical reasons force them thereto. Existing Agreements are annulled at the latest, starting on the date on which the service is annulled. SMITCOMS will in that case, where possible, offer a substitute service.

10. Use

10.1. Legal requirements exist for Peripherals. It is not allowed to connect machines to a Network Connection Point which do not comply with these legal requirements. The consequences for connecting machines which do not comply with this, among which financial consequences, are for the Contracting Party.

10.2. The Contracting Party is responsible for all the use which is made of his Connection, even though that happens without his consent. All call-charges are for his account in compliance with article 14. The Contracting Party is also responsible for everything that happens with Services at the agreed location, as far as he is accountable for that.

10.3. It is not allowed to perform, do or let perform activities which are for the purpose to influence the amounts, which without those activities would have been due to SMITCOMS by the Contracting Party for the use of the Long Distance Telephone Service.

10.4. If the telecommunication-traffic is disturbed by the use of the Connection, or from connected Peripherals, the Contracting Party is obliged to follow the regulations, to be given by SMITCOMS, and to accept the financial consequences connected to that. If this is necessary, according to the opinion of SMITCOMS, SMITCOMS may possibly put the Connection (temporarily) fully or partly out of service.

10.5. For some types of Connections, which will be indicated by SMITCOMS, the Contracting Party must himself take care of the cost for the electrical energy which is necessary for the use of the Connection.

11. Maintenance and Interruption

11.1. The part of the Connection for which SMITCOMS is responsible, is maintained by or on behalf of SMITCOMS. For the purpose of maintenance SMITCOMS may temporarily interrupt a (part of a) Connection. SMITCOMS will limit this to a minimum and where necessary – taking into account the circumstances of the case – notify about this in time, unless this is reasonably not possible.

11.2. If an interruption occurs in the functioning of the Long Distance Telephone Service, this interruption must be told to SMITCOMS by or on behalf of the Contracting Party as soon as possible.

11.3. Interruptions will be investigated as soon as possible, but in any case within two Working Days, after they have become known to SMITCOMS, unless this is reasonably not possible for SMITCOMS within that period or if the necessary cooperation on the side of the Other Concession Holders is delayed or not given at all.

11.4. The Contracting Party must, if this is necessary for a good interruption investigation, give his cooperation to the interruption investigation.

11.5. The interruption will best be solved based on the standard service described in paragraph six, unless a special service type was agreed with the Contracting Party.

11.6. The standard service means that as soon as possible, but at least within a period of five Working Days after the interruption notification, such measures will be taken that the Connection or a comparable alternative service can be used again, unless it is reasonably impossible for SMITCOMS, to take those measures within that period.

11.7. The costs of the interruption-investigation and the costs of solving the interruption are for the account of SMITCOMS. These costs may be charged to the Contracting Party if the interruption came into existence by activities or failures in violation of these General Conditions or if the interruption came into existence due to malfunctioning of Peripherals or the presence of other machinery on the agreed location which are of influence to the Connection. Another arrangement can be agreed with the Contracting Party concerning the distribution of costs.

11.8. If an interruption as meant in the previous paragraph (also) affects Connections of other Contracting Parties, SMITCOMS has the right to also charge the costs caused by that to the Contracting Party from whose Connection the interruption is caused, unless this reasonably cannot be charged to this Contracting Party.

11.9. For services for which SMITCOMS gives a Service Guarantee in addition to the General Conditions, the periods mentioned in that Service Guarantee are valid in deviation of the third and sixth article. If the interruption is not solved within the periods mentioned in the Service Guarantee in the way indicated in the guarantee, the Contracting Party has a right to the compensation indicated in the Service Guarantee.

12. Liability of SMITCOMS

12.1. SMITCOMS is, in connection with the completion or execution of the Agreement, not liable, except for that which is stipulated in the following paragraphs of this article.

12.2. SMITCOMS is only liable for damage which was caused by a failure which can be charged to them, in the following cases and to the maximum of the amounts indicated therein:

- a. if it is damage as a result of death or bodily harm, to a maximum of two million guilders per case;
- b. if it is damage as a result of acting in violation of the articles 390, 390 sec. and 391 of the Criminal Code of the Netherlands Antilles, to a maximum of two million guilders per case;
- c. if it is damage as a result of damage done to things of the Contracting Party which was caused during work which is related to the execution of the Agreement, to a maximum of one million guilders per case;

- d. if it is damage as a result of putting out of service of a Connection by SMITCOMS as meant in article 18, without having a reason for that, to the maximum of five thousand guilders per injured party, with a maximum of two million guilders per case;
- e. if it is damage as a result of other administrative mistakes than meant under d and e, to the maximum of five thousand guilders per injured party, with a maximum of two million guilders per case;

12.3. Shortcomings of Other Concession Holders and Service Tenderers of Telecommunication Networks and Telecommunication Services to which the Telecommunication Network of SMITCOMS is connected, cannot be charged to SMITCOMS.

12.4. If as a result of a case as meant in the second paragraph more than one claim develops and the claims together rise above the maximum stipulated per case, the claims will be satisfied equally.

12.5. SMITCOMS cannot appeal for limitation of the liability as meant in the second paragraph, if the damage is caused by SMITCOMS on purpose, or recklessly and with the knowledge that the damage could be caused by that.

12.6. Damage as meant in the second paragraph under c must be communicated to SMITCOMS as soon as possible, but at the latest within one week after it happened, in writing. Damage which was not brought to the attention of SMITCOMS within that period, is not eligible for compensation, unless the Contracting Party makes it plausible that he could not communicate the damage earlier.

12.7. The stipulations in the previous paragraphs leave the compensation to be paid in connection with a Service Guarantee, intact.

13. Liability Contracting Party

13.1. The Contracting Party is, in connection with the commencement or execution of an Agreement, not liable, except for that which is stipulated in the following paragraphs of this article.

13.2. The Contracting Party is liable for damage which were caused due to a failure to be blamed on them. This damage also includes damage as a result of loss, theft or damage of Services at the agreed location, if the cause of this damage can be blamed on the Contracting Party.

13.3. A Contracting Party is exclusively liable for business- or consequence-damage of SMITCOMS if this damage is caused by the Contracting Party on purpose, or recklessly and with the knowledge that the damage could be caused by that.

13.4. The Contracting Party waives SMITCOMS from claims of third parties for compensation of damage which these third parties could in any way charge to SMITCOMS, as far as this claim is based on (the way in which) the Contracting Party used the Long Distance Telephone Service or Additional Services, especially for the contents of information, sent by him across the Connection.

14. Charges

14.1. The Contracting Party owes SMITCOMS charges for services used by him according to the rates, determined for that and made known. The rates may consist of non-recurring amounts due, monthly or otherwise periodically amounts due and amounts which depend on the use of the Telephone Service and Additional Services. The amounts are raised with Government Tax and possible other amounts levied by the government.

14.2. Charges for the use of Connections and Additional Services may concern the created telecommunication-traffic and the telecommunication-traffic that was accepted for the account of the person called.

14.3. As far as monthly amounts due are not due for a full calendar month, for each day 1/30 part of the monthly amount will be charged.

14.4. To determine the amounts due as meant in the second paragraph, the data of SMITCOMS are decisive in the end, unless it is proved that these data are wrong. SMITCOMS must take into consideration the carefulness which may be required for this, when determining these data.

14.5. The rates consisting of non-recurring charges may be deviated from, if the completion of the Connection brings exceptional costs, rising far above the average.

14.6. Monthly charges due for Connections or Additional Services will not be charged for an proportional amount for periods in which the Connection or Additional Service did not function for three consecutive days, as a result of other causes than meant in articles 10, paragraph four, and 11, paragraph seven.

15. Payments

15.1. The non-recurring and periodical charges, meant in article 14, first paragraph, are due from the date the Connection is put into service. If the putting into service is made impossible because SMITCOMS has insufficient access to a location where the Network Connection Point has to be installed, due to circumstances to be blamed on the Contracting Party, the amounts are due from the date on which the putting into service could have taken place, if sufficient access would have been given.

15.2. SMITCOMS has the right to desire pre-payment of non-occurring and periodical charges due. Use-dependent charges are due from the date that they are charged. Deviating payment conditions may be determined for certain subscription types.

15.3. Unless another way of invoicing was agreed, SMITCOMS charges the amounts due to the Contracting Party by means of an invoice. Invoices are sent periodically, for which for the various subscription types different periods may be used. In special circumstances (such as with above-average high amounts for user-dependent charges in a limited period) SMITCOMS may charge those amounts before that time.

15.4. Unless the Contracting Party gives SMITCOMS a power-of-attorney for automatic collection on which basis SMITCOMS receives payments, payment has to take place in the way in which and within the period specified on the invoice. The period consists of, apart from the special circumstances as meant in the previous paragraph, at least 14 days, calculated from the day on which the Contracting Party received the invoice. For amounts which are due by pre-payment another way of payment may be agreed.

15.5. The Contracting Party may make known in which way of the ways offered by SMITCOMS, he wants his invoice specified. For specification which rise above the standard specification, a charge may be requested according to rates made known for that.

15.6. Objections to amounts which are charged must be made known to SMITCOMS before the due date of the invoice. SMITCOMS will not appeal this transgression of this period towards a Contracting Party, if the objections could reasonably not have been found out within that period. Payments of the part of the charged amount to which there were no objections made, cannot be suspended.

15.7. If the Contracting Party repeatedly brought objections forward against the amounts charged to him and the objections appeared to have no ground, SMITCOMS may, when again objections are brought forward, charge the Contracting Party for the investigation costs to be made. SMITCOMS will inform the Contracting Party that she will use this power before starting the investigation.

16. Arrears in payments

16.1. If the Contracting Party did not pay within the period meant in article 15, paragraph four, he is without further notice of default, in arrears.

16.2. From the date on which the Contracting Party is in arrears, SMITCOMS has the right to charge the legal interest and the reasonable costs to obtain payment, out of court. Those costs, out of court, can be considered for compensation, which in reasonableness were made and which as far as height is concerned are reasonable in proportion to the open claim.

16.3. SMITCOMS only then has the right to (partly) interrupt the services or to annul the Agreement because of payments in arrears, after the Contracting Party has not paid within a next period, stipulated by SMITCOMS in a reminder to be sent. This next period consists of, apart from the situation meant in article 18, third paragraph, at least 14 days to be calculated from the day that the reminder was sent to the Contracting Party.

17. Security

17.1. If, based on general or special facts and circumstances there reasonably is a doubt that the Contracting Party (or the applicant as meant in article 3) will not meet his payment-obligations, or if he accrues, in a limited period, above-average high amounts for user-dependent charges, or if he has no permanent residence or place of abode or place of establishment on Sint Maarten, SMITCOMS has the right to claim either a security or bank-guarantee, or a deposit.

17.2. The amount of the stipulation in the first paragraph will not be higher than the amount which the Contracting Party will be indebted to over a period of six calendar months. For Agreements with a minimum length of more than a year, a longer period may be used as scale.

17.3. As soon as the necessity for security is no longer present, SMITCOMS will notify that the security or bank-guarantee can be annulled, or the deposit increased with possible interest will be paid back.

17.4. No interest will be paid over the deposit over the first year after depositing. If the deposit rests longer than one year with SMITCOMS, interest will be paid over the full period on a yearly basis, of which the percentage is equal to that of the legal interest.

18. Disuse of the service

18.1. Taking into consideration the stipulations in the previous articles, SMITCOMS retains the right to put the Connection, as well as her other service (temporarily) fully or partly out of service, if the Contracting Party does not meet a requirement towards SMITCOMS concerning a Connection, and this not-meeting justifies disuse. The obligation to pay the monthly charges as meant in article 14, first paragraph, and of the remaining charges due, remains during the period of disuse.

18.2. SMITCOMS is entitled to proceed to full or partly disuse without notification of default or communication, if the Contracting Party acts in violation of article 10, third or fourth paragraph, or if the Contracting Party in another way damages the interests of SMITCOMS, so that it can not be expected of SMITCOMS that the Connection is kept in service.

18.3. SMITCOMS has the right to proceed to blocking certain destinations for which above-average rates are valid, in case a Contracting Party accrues, in a limited period, above-average amounts for user-dependant charges, until the Contracting Party has proceeded to pay or has guaranteed security according to article 17. Where it is reasonably possible, SMITCOMS will inform the Contracting Party about this beforehand.

18.4. If the Contracting Party has met his obligations within a period determined by SMITCOMS, SMITCOMS will proceed to putting into service again. For the putting into service an amount for reconnection-costs is due.

18.5. SMITCOMS cannot be held liable for the fact that a Connection is put out of service, if such can be blamed to interruptions in the telecommunication-infrastructure of Other Concession Holders or if these Other Concession Holders have put the connection with the Contracting Party out of service.

19. Access, Tolerance

19.1. The Contracting Party is obliged to allow that in and on his buildings as well as on his land which forms one integral part, Services are set-up for the Connection in those buildings or neighbouring buildings and that the Services are maintained, changed, moved or removed.

19.2. For the works mentioned in the first paragraph, as well as for the solving of interruptions and the checking of observing the conditions related to the Services meant there, the Contracting Party must give the persons, which are charged with that, access to the places where the work has to be done. If requested these persons will identify themselves. The activities will normally not be done in the hours which are meant for sleep.

19.3. The Contracting Party is obliged at the request of SMITCOMS, for the activities mentioned in the first paragraph, to cut trees and plants, or shorten the roots or branches of those, as far as these are or could become reasonably disturbing for the set-up, maintenance and exploitation of the Telecommunication Network of SMITCOMS.

19.4. The Contracting Party must take the necessary measures at the place where the activities as mentioned in the first paragraph, have to be done, at the request of SMITCOMS, so that SMITCOMS can execute its work properly.

20. Supply of information

20.1. The Contracting Party is obliged to supply SMITCOMS the data SMITCOMS needs to maintain a good working Long Distance Telephone Service and Additional Services, including information about connected or to be connected Peripherals.

20.2. SMITCOMS will practise confidentiality for all information she receives from the Contracting Party, of which she, from the type of information, can conclude the confidential character.

21. Use and Processing of (personal) data; protection of the personal sphere of life

General stipulations

21.1. SMITCOMS processes the (personal) data, including Traffic Data, of the Contracting Party which are necessary for a good service. These data are processed in accordance with the law. Processing of personal data will be entered according to the applicable legal rules.

21.2. SMITCOMS ensures adequate organizational and technical measures to protect personal data. Personal data will be no longer saved than is necessary for a sound management or than is legally obliged.

21.3. In the following paragraphs of this article, special stipulations are included for the most important ways of processing of personal data. If other ways of processing arise than mentioned in the following paragraphs, then SMITCOMS will observe the stipulations in the first and second paragraph.

Processing for communication purposes

21.4. Files for paper- and electronical telephone directories and number information services (as meant in article 7) can also be made available by SMITCOMS to other tenderers of such directories and number information services.

21.5. SMITCOMS may make the personal data available to third parties in view of use by them in connection with canvassing for commercial, ideological and charity purposes, unless the Contracting Party has imparted to have objections against that.

Processing for SMITCOMS service and invoices

21.6. SMITCOMS may process Traffic Data in connection with its own service, and especially if this results from a subscription type used by the Contracting Party.

21.7. For specification of invoices as meant in article 15, paragraph five, the telephone number of the Connection with which a connection was established can be shown on the invoice of the caller, unless it was agreed with the Contracting Party that his number will not be mentioned on the specified invoice of other Contracting Parties. This protection is not valid for numbers for which SMITCOMS has indicated that protection is not offered. Protection is only valid for the specified invoices of the Long Distance Telephone Service of SMITCOMS itself. SMITCOMS may agree with other tenderers of fixed and mobile telecommunication-services, established on Sint Maarten, that they offer a comparable protection, for which the data of protected telephone numbers is exchanged.

Processing of number information

21.8. For the purpose of completion of the telecommunication-traffic across various Telecommunication Networks of SMITCOMS and of other Service Tenderers of telecommunication-services on Sint Maarten, within the Netherlands Antilles, and abroad,

number information is exchanged. For the use of this number information there are legal rules in the Netherlands Antilles and in many other countries. SMITCOMS cannot answer for the observance of those rules by other tenderers than SMITCOMS itself.

21.9. In connection with the Additional Service Number Display, the number of the calling Connection is transmitted to the called Connection, unless a way of blocking of that transmission is used by Other Concession Holders. Based on a legal obligation, SMITCOMS may be obliged to communicate the number of the calling Connection, also if a blocking is used. This is, in any case, valid for calls to an alarm number for public services.

Processing for annoying calls

21.10. SMITCOMS may – if this is technically possible and applying the usual procedures for that – at the request of a Contracting Party (or user of a connection on another network), who imparts to receive annoying calls, give the name, address, city, postal code and number of the Contracting Party from whose connection contact was sought several times, for a charge. As far as calls come from a Telecommunication Network of another tenderer than SMITCOMS, this service can only be done if the other tenderer cooperates.

Processing in connection with legal obligations

21.11. SMITCOMS will comply with legal obligations to give information (including personal data), such as in connection with a criminal investigation.

21.12. SMITCOMS guarantees the telephone- and telegraph-secrecy, observing the exceptions determined by law. SMITCOMS is obliged to cooperate with a person, entitled by law to order the tapping of data.

Processing of data in case of default

21.13. SMITCOMS has the right to maintain a file of Contracting Parties of whom the Connection was put out of service due to paying too late, with observance of the stipulations of article 18. This file is meant to be used by SMITCOMS and by other tenderers of public telecommunication services, in connection with acceptance of applications for those services. SMITCOMS will inform a Contracting Party at his request, if he is entered in such a file and in which way he is possibly entered. If the Contracting Party objects to the way in which he is entered, he may make objections against that.

22. Length of the Agreement

22.1. The Agreement is entered into for an unlimited period of time and has a minimum length of one year, calculated from the date of putting into service, unless another period was agreed with the Contracting Party in writing against conditions, further to be determined.

22.2. The agreement can be annulled by the Contracting Party close to and after the minimum length has lapsed, in writing, observing a period of notice of one Month.

22.3. Notice is only possible during the minimum length, if the Contracting Party has deceased during the minimum length, or if a change, carried through at SMITCOMS as meant in article 9, second paragraph, or a situation as meant in article 27, fourth paragraph, occurs.

22.4. The Agreement may be annulled by both parties, with observance of the stipulations in article 9, third paragraph, if (the subscription type of) the Long Distance Telephone Service or Additional Service for which the Agreement was entered into, with observance of the stipulations in that paragraph, is cancelled.

22.5. Both the Contracting Party and SMITCOMS may annul the Agreement if the other party falls short in meeting one or more of its obligations, as far as this falling-short justifies annulment. If observance is still possible, first a written summons must be sent, except for the cases as meant in article 18, second paragraph, or if a reminder as meant in article 16, third paragraph has been sent. Annulment is also possible in case of bankruptcy or moratorium of the Contracting Party, unless the curator or trustee chooses to continue the Agreement and gives sufficient security in accordance with article 17.

22.6. If SMITCOMS annuls the Agreement on the basis of the previous paragraph during the minimum length as mentioned in the first paragraph, the Contracting Party is still obliged to pay the periodical charges, as meant in article 14, first paragraph, over the remaining period of the minimum length.

22.7. After the annulment of the Agreement, the Contracting Party must give the opportunity to remove the Services on the agreed location at the first request of SMITCOMS. If the Contracting Party has not given SMITCOMS the opportunity to execute the works, one Month after the annulment of the Agreement, the periodical charges, as meant in article 14, first paragraph, are still owing by him, up to the moment that SMITCOMS has been able to execute the work meant here.

22.8. If during the minimum length of the Agreement a change, change in location, or moving is realised, and after that a lower monthly amount would be due according to the rates, than was previously the case, then the Contracting Party still owes the original amount during the minimum length.

23. Transfer of Contract

The Contracting Party does not have the right to transfer the rights and obligations to a third party without written consent of SMITCOMS. Conditions may be connected to the consent.

24. Complaints and disputes

24.1. The Contracting Party must first turn to SMITCOMS in case of complaints or disputes related to the Agreement, via the (free) telephone number or correspondence address indicated on the invoice. SMITCOMS will react to this content-wise, within 30 days after receipt of the complaint, unless this is impossible within reason. In that case SMITCOMS will inform the Contracting Party – communicating the reasons – within that period when the content-wise reaction will be imparted to him at the latest.

24.2. At the latest 30 days after receipt of a written refusing reaction of SMITCOMS or within 30 days after the passing of the date on which according to the previous paragraph, there should have been a reaction, the Contracting Party can let the dispute be conducted conform the procedure as determined in the Country's Ordinance dispute-settlement concession holders.

24.3. If the Contracting Party does not agree with the conducting of the dispute conform the procedure as determined in the Country's Ordinance dispute-settlement concession holders, then parties may present the dispute to the civil judge, competent for such cases.

25. Applicable law

The law of the Netherlands Antilles is applicable to the Agreement.

26. Period of limitation

All claims on account of the Agreement become prescribed by the passing of five years, calculated from the day following that on which the claim was due. Closing of the limitation is done in accordance with the rules of the general law.

27. Changes in Conditions and Rates

27.1. These General Conditions and the rates may be changed by SMITCOMS.

27.2. Except for the stipulations in the fourth paragraph, changes of these General Conditions and of the rates are also valid concerning already existing Agreements.

27.3. The changes become effective 14 days after the notification or on a later date mentioned in the notification.

27.4. If a Contracting Party does not want to accept a change in these General Conditions, he can cancel the Agreement in writing starting from the date on which the new General Conditions become effective. The annulment must be done on time. The annulment is only then accepted by SMITCOMS as on time, if the notification is received by SMITCOMS before the date last-mentioned. As far as changes in rates are concerned the stipulations of this paragraph are only valid as far as the rate-changes result in a higher rate on the balance for the Contracting Party.

*Translated by Drs. L.M.C. Stamm-Huijbregts
Sworn Translator Dutch-English/ English-Dutch*