

# SWIFT INTERNET TERMS AND CONDITIONS OF SERVICE

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## GENERAL

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### 1. What are the Terms and Conditions of Service?

The terms and conditions of service (“**Service Terms**”) govern your use of any Services, as defined below.

Throughout this document:

- “**Equipment**” means any device, equipment or hardware used to access the Services or used in conjunction with the Services;
- “**I**”, “**me**”, “**you**”, “**your**” and “**yours**” refer to you but also to persons that you authorize to use the Service or act as your agent with regard to the Service;
- “**Identifiers**” means e-mail addresses, account numbers, personal identification numbers (“**PINs**”), Internet Protocol addresses, personal web page addresses, access codes and any other identifier assigned to you by Swift Internet;
- “**Service Agreement**” means an agreement between you and Swift Internet setting out the terms for one or more Services. For additional certainty, Service Agreements include: (1) online orders submitted by email and confirmed by us; (2) telephone orders which are confirmed by email or other means; and (3) orders signed in person and accepted by us;
- “**Services**” mean any Services that you subscribe to or receive through Swift Internet, including but not limited to various Internet access services. All Equipment and Software (as defined in this section) are considered elements of the Services;
- “**Swift Internet**” means 0764016 BC Ltd., its parents, subsidiaries and affiliates;
- “**Swift Internet Dropbox**” means a physical dropbox located at The Source, 1117A Canyon St. Creston, British Columbia, where you may deposit payment for Services;
- “**Swift Internet Parties**” means Swift Internet, its partners, licensors, dealers, representatives, suppliers and agents (and their respective employees, officers, directors, shareholders and representatives);
- “**Software**” means any software used to access the Services or used in conjunction with the Services;
- “**us**”, “**we**”, “**our**” or “**ourselves**” means Swift Internet;
- “**Website**” means [www.swiftinternet.ca](http://www.swiftinternet.ca).

### 2. What is included as part of my Agreement for Services with Swift Internet?

Your Service Agreement(s), any Swift Internet document describing features, products or services and any other document incorporated by reference together with these Service Terms constitute our agreement with you (“**Agreement**”). In the event of an inconsistency between the constituent documents of the Agreement, the inconsistency will be resolved by giving preference first to a Service Agreement(s), then to the Service Terms, and lastly to any other Swift Internet documentation describing features, products or services.

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### 3. How do I accept this Agreement?

By using the Services or allowing Services to be installed at your premises, you acknowledge that you have read, understood and agree to the Service Terms. If you do not agree to the Service Terms, you may not use the Services.

### 4. How long does the Agreement last?

The “**Term**” of your Agreement with Swift Internet begins when you accept the Agreement and will continue until the Agreement is terminated. Swift Internet provides Services to you on an ongoing month-to-month basis.

### 5. Can Swift Internet change the Agreement?

Swift Internet can change the Agreement and any aspect of the Services. Before we make any changes to the Agreement, we will give you at least thirty (30) days’ written notice by email, letter, bill insert or by posting the notice on our Website.

If you continue to use the Service after thirty (30) days from the effective date indicated in the notice, the new service term will become effective.

### 6. What if I do not agree with a change that Swift Internet makes to the Agreement?

If you do not agree with a change made by Swift Internet, you may cancel the affected Services in accordance with Section 29.

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## ACCOUNT, BILLING AND PAYMENT

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### 7. How does Swift Internet bill me for the Services?

Swift Internet will bill you monthly, in advance. You must pay all recurring and one-time charges (“**Fees**”) and all applicable taxes due for Swift Internet services within fifteen (15) days of Swift Internet’s invoice date. Swift Internet may bill you monthly in arrears for certain Fees. For example, billing in arrears may be necessary for charges that can only be calculated at the end of a billing month (e.g. usage based charges). Service Agreements may also modify the billing terms for certain Services.

### 8. How can I pay my bill?

You can pay your bill online through your bank account, by cheque or cash (through the mail or deposited at the Swift Internet Dropbox), or with select credit cards. You confirm that you are an authorized user of the credit card or bank account and that it is valid and has not expired. You must promptly advise Swift Internet if your credit card or bank account information changes.

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### 9. What charges apply to late payments, rejected payments and other account processing actions?

If Swift Internet does not receive payment within fifteen (15) days of the invoice date, you will be subject to a late payment charge of 1.5% per month, calculated and compounded monthly on the outstanding amount (18% per year) (“**Late Payment Charges**”) from the date of the first invoice on which the outstanding amount, including any Late Payment Charges.

You agree that we can charge any unpaid and outstanding amount, including any Late Payment Charges and taxes, on your account to your credit card, bank account or any other payment method pre-authorized by you for payment of Fees.

Administrative charges in the amount of \$20.00 may be levied for administration or account processing activities in connection with your account, including as a result of the following:

- collection efforts due to non-payment or having a balance over your credit limit, including unbilled usage and pending charges, fees and adjustments;
- returned or rejected payments due to non-sufficient funds (“NSF”) or any other reason;
- change of any Identifier; and/or
- the restoral of Service

### 10. What if I dispute Fees on my invoice?

If you have any questions, disputes or discrepancies to report regarding Fees, you must do so within ninety (90) days of the invoice date. Failure to notify us within this time period will constitute your acceptance of such Fees. We will investigate disputes and if, in our sole discretion, we determine that a portion of the Fees was incorrectly charged, then we will reverse the disputed portion of the Fees. You must pay the undisputed portion of the Fees in accordance with Section 8.

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## YOUR RESPONSIBILITIES

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### 11. Does Swift Internet have any policies that apply to the Services and your interactions with Swift Internet?

Yes. From time to time, Swift Internet may establish policies, rules and limits (collectively “**Policies**”) concerning your relationship with Swift Internet and the use of the Services, Equipment and any products, content, applications or services used in conjunction with the Services or Equipment. The Policies are incorporated into these Service Terms by reference.

### 12. Are there any limits to my use of the Services?

Yes. You agree to comply with and use the Service for your own personal use, in accordance with the Agreement and all applicable laws. You also agree not to:

- a) Resell the Services, receive any charge or benefit for the use of the Services; and

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- b) Transfer your Services without our express consent.

You must also follow any Policies setting out acceptable use guidelines for the Services and Equipment.

### **13. How can I be sure that Swift Internet has accurate contact information for my account?**

You are responsible for keeping the contact and payment information you provide to Swift Internet (including name, mailing address, email address, address where the Services will be provided to you), phone number, and any authorized users) up to date. If this Agreement is cancelled, you will provide Swift Internet with forwarding information for final invoices or correspondence if your new contact information is different from the information we have on file. Failure to provide a forwarding address may result in the forfeiture of any outstanding credits or deposits on your account.

### **14. What am I responsible for if my Swift Internet account is compromised?**

You must notify Swift Internet immediately should you suspect unauthorized use of the Services or if Equipment is lost or stolen. You are responsible for payment of all Fees and taxes charged to your account, whether authorized by you or not, which is why it is so important to protect your account and keep account information (including authorized users) up-to-date.

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## SWIFT INTERNET SERVICES

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### **15. Are there any warranties on the Services?**

To the maximum extent permitted by law, Swift Internet Parties make no conditions, warranties or representations about the suitability, reliability, usability, security, quality, capacity, performance, availability, timeliness or accuracy of the Services. You bear the entire risk as to the use, access, transmission, availability, reliability, timeliness, quality, security and performance of the Services.

To the maximum extent permitted by law, The Swift Internet Parties expressly disclaim all conditions, warranties and representations, express, implied or statutory including, but not limited to, implied conditions or warranties of merchantability, fitness for a particular purpose, durability, title and non-infringement, whether arising by usage of trade, course of dealing, course of performance or otherwise. To the maximum extent permitted by law, no advice or information, whether oral or written, obtained by you from the Swift Internet Parties creates any term, condition, representation or warranty not expressly stated in the Agreement.

### **16. Does this mean that there may be circumstances when the Services are not available?**

Unfortunately, yes. Performance and availability of the Service depend on several factors, including access to third-party providers and suppliers that Swift Internet does not fully control.

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### SWIFT INTERNET EQUIPMENT AND SOFTWARE

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#### **17. Are there any limitations with respect to use of Equipment?**

Yes. Except for Equipment that you have fully paid for, all Equipment installed or provided by us remains our property and you agree that:

- You will take reasonable care of the Equipment;
- You may not sell, lease, mortgage, transfer, assign or encumber the Equipment;
- You may not relocate the Equipment without our knowledge and permission; and
- You will return the Equipment to us at your own expense upon termination of the Services to which the Equipment is related.

If Equipment is lost, stolen or damaged or sold, leased, mortgaged, transferred, assigned, encumbered or not returned, you agree to pay us the undiscounted retail value of Equipment, together with any costs incurred by us in seeking possession of such Equipment.

#### **18. Do I need to grant Swift Internet access to Equipment?**

Yes. You agree to authorize us and our representatives to enter or have access to your premises as necessary at mutually agreed upon times to install, maintain, inspect, repair, remove, replace, investigate, protect, modify, upgrade or improve the operation of our services, the Equipment or our facilities or networks. If any of your Services or accounts have been terminated, then you authorize us and our representatives to enter or have access to your premises to disconnect the Services, as applicable. You must immediately notify us if Equipment is lost, stolen or destroyed.

#### **19. Do I have any say as to how Swift Internet will install Equipment?**

Swift Internet installs Equipment at your premises in a manner which, in our sole discretion, is most appropriate based on a combination of factors including: Service requirements, structural and environmental considerations and worker safety. Swift Internet reserves the right to deny your request for alternate Equipment installation configurations (“**Customer-Requested Installation Configuration**”). Any Customer-Requested Installation Configuration is also subject to specific limitations of liability described in Section 27.

#### **20. Will the Service ever require changes of Equipment?**

Yes. The Equipment, Equipment specifications and the location of Equipment require changes, at our sole discretion, from time to time. Unless otherwise specified by us, you are solely responsible for updating or maintaining your Equipment and software as necessary to meet such requirements, and you may not be entitled to customer support from us if you fail to do so.

#### **21. Are there any limitations to the use of Software**

Yes. Software, including all related documentation accompanying the Software (“**Software Documents**”), is for your own personal, non-commercial use and may not be distributed, transferred or sold. All Software and Software Documents remain our property or that of our

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licensors or content providers, as applicable. You agree to take reasonable steps to protect Software and Software Documents from theft, loss or damage. You must review and agree to any applicable end user licence agreement of Swift Internet, our licensors or content providers. Unless otherwise provided in the applicable end user licence agreement, all end user licence agreements will terminate upon termination of the applicable Service Agreement.

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### PROPRIETARY RIGHTS

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**22. Is the content that I access through the Services subject to any intellectual property rights?**

Yes. You acknowledge that content including, but not limited to, text, software, music, sound, photographs, video, graphics or other material accessed through the Services or the Internet is protected by applicable copyrights, trade-marks, patents, trade secrets and/or other proprietary rights and laws.

You further acknowledge that, except where expressly stated otherwise, all Equipment, Software, content, documentation, processes, designs, technologies, materials and all other things comprising the Services are owned by Swift Internet, its licensors or its suppliers and are protected by applicable copyrights, trade-marks, patents, trade secrets and/or other proprietary rights and laws.

**23. Do I have any rights to the content that I provide in connection with the Services?**

Yes. Swift Internet does not claim ownership of information, materials, software or other content (collectively, the “**Content**”) that you post, upload, input, provide, submit or otherwise transmit to Swift Internet or any third party, using the Services. However, you agree that by posting, uploading, inputting, providing, submitting or otherwise transmitting the Content to Swift Internet or any third party, using the Services, you have thereby granted Swift Internet a royalty-free, non-exclusive license to use, copy, distribute, transmit, display, edit, delete, publish and translate such content to the extent reasonably required by Swift Internet to provide the Services to its customers or to ensure adherence to or enforce the terms of this Agreement.

**24. Who owns electronic addresses used in connection with the Services?**

Except where otherwise specified by Swift Internet, Identifiers remain the property of Swift Internet at all times.

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### CONFIDENTIALITY OF YOUR INFORMATION

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**25. Does Swift Internet perform credit checks or report credit history?**

Yes, by entering into the Agreement you agree that Swift Internet may perform credit checks on you and obtain information about your credit history from a credit reporting agency or credit

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grantor to activate Services you ordered, or to assist in collection efforts. Swift Internet may also disclose your Swift Internet credit history to credit reporting agencies, credit grantors and/or collections agencies.

### **26. Will Swift Internet send me commercial electronic messages?**

Yes. By entering into the Agreement, you are providing your consent to receive commercial electronic messages from Swift Internet. However, at any time, you may unsubscribe from commercial electronic messages by using the unsubscribe mechanism contained in such messages.

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## LIABILITY AND INDEMNIFICATION

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### **27. How does Swift Internet limit its liability?**

You agree that, unless otherwise specifically set out in a Service Agreement, to the maximum extent permitted by applicable law, Swift Internet Parties' liability for negligence, breach of contract, tort, or other causes of action, including fundamental breach, is limited to a maximum amount equal to the greater of twenty (\$20) or an amount equal to the Fees payable during any service outage.

Other than the foregoing payment and to the maximum extent permitted by applicable law, Swift Internet Parties are not responsible to anyone for:

- Any direct, indirect, special, consequential, incidental, economic or punitive damages (including loss of profit or revenue, financial loss, loss of business opportunities, loss, destruction or alteration of data, files or software, breach of privacy or security property damage, personal injury, death or any other foreseeable or unforeseeable loss, however caused) resulting or relating directly or indirectly to the Service or any advertisements, promotions or statements relating to any of the foregoing, even if we were negligent or were advised of the possibility of such damages;
- The performance, availability, reliability, timeliness, quality, coverage, uninterrupted use, security, pricing or operation of the Service;
- Any error, inclusion or omission with respect to any telephone listings or directories;
- The denial, restriction, blocking, disruption or inaccessibility of any Services, public alerts or special needs services, Equipment or Identifiers;
- Any damages relating to a Customer-Requested Installation Configuration;
- Any lost, stolen, damaged or expired Equipment, Identifiers, passwords, codes, benefits, discounts, rebates or credits;
- Any error, omission or delay in connection with the transfer of Identifiers to or from another telecommunications service provider or any limitation connected thereto;
- Any acts or omissions of a telecommunications carrier whose facilities are used to establish connections to points that we do not serve; or

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- Any claims or damages resulting directly or indirectly from any claim that the use, intended use or combination of the service or any material transmitted through the Services infringes the intellectual property, industrial, contractual, privacy or other rights of a third party.

These limits are in addition to any other limits on Swift Internet Parties' liability set out elsewhere in the Agreement.

### **28. Must I indemnify Swift Internet Parties with regards to the Agreement?**

Yes. You agree to indemnify and hold harmless Swift Internet Parties from all demands, claims, proceedings, losses, damages, costs and expenses (including, without limitation, reasonable legal fees and other litigation expenses) incurred by or made against Swift Internet Parties, which result from or relate to the Services, your use of the Services or other matters related to this Agreement.

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## CANCELLING AND SUSPENDING SWIFT INTERNET SERVICES

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### **29. When and how can I cancel Services?**

You may cancel any or all of your Services and any corresponding Service Agreement at any time by contacting Swift Internet at the points of contact specified in these Service Terms.

### **30. When can Swift Internet cancel or suspend my Services?**

Swift Internet may cancel any or all of your Services and corresponding Service Agreements upon no less than thirty (30) days' notice to you at your email address.

Swift Internet may also restrict, block, suspend, disconnect or terminate any or all of your Services, including 9-1-1 service, for cause, without notice, if:

- you are in breach of a Service Agreement, including non-payment of your charges or non-compliance with any Policies;
- you do not maintain Service usage within the prescribed credit limit;
- you exceed reasonable usage limits, as determined by us;
- you have given us false, misleading or outdated information
- we reasonably suspect or determine that any of your Services, Equipment and / or Identifiers are the subject of fraudulent, unlawful or improper usage or usage that adversely affects our operations or the use of our services, facilities or networks by others;
- you harass, threaten or abuse us or our employees or agents;
- you fraudulently or improperly seek to avoid payment to us;
- we need to install, maintain, inspect, test, repair, remove, replace, investigate, protect, modify, upgrade or improve the operation of the Services, the Equipment or our facilities or networks; or
- we reasonably believe that there is an emergency or extreme circumstance that would warrant such action.

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### **31. What amounts must I pay if my Service(s) are cancelled?**

If you or Swift Internet cancels one or more of your Services, you must pay all outstanding fees (including any installation fees for Services that have been installed but not activated), taxes, and Late Payment Charges on your final invoice for those cancelled Services. Swift Internet will provide a refund for the cancelled portion of Fees that you have paid in advance for Services. This refund will be pro-rated based on the number of days left in the last monthly billing cycle after cancellation.

### **32. How can I restore my Service(s) if they have been restricted, blocked, suspended, disconnected or terminated by Swift Internet?**

Swift Internet may, at its sole discretion, restore your Services, with or without conditions that may include:

- a) Full repayment of outstanding amounts owing to Swift Internet;
- b) Compensation for costs incurred by Swift Internet in connection with your breach of the Service Terms, including costs incurred to enforce your compliance; or
- c) Changes to your Fees on an ongoing basis

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## ADDITIONAL TERMS

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### **33. Do I have to meet certain criteria to enter into this Agreement?**

Yes. By entering into this Agreement, you represent and warrant that you have reached the age of majority in the province of British Columbia, which is **19** years of age, and that you possess the legal right and ability to enter into this Agreement and use the Services in accordance with this Agreement.

### **34. What is the process that applies to unresolved disputes with Swift Internet?**

If you have a dispute about Services, about this Agreement, or about what we say outside this Agreement, then we want to resolve the dispute quickly and fairly, and will work with you in good faith to do so. If you have tried to work with us but remain unsatisfied, then you have a right to escalate the dispute.

With the exception of billing disputes, which are resolved exclusively through the process described in Section 10 of these Service Terms, any unresolved dispute may also be referred to voluntary single arbitrator arbitration. In such event, the fees for the arbitrator shall be shared equally by the parties.

### **35. Which Court has jurisdiction over claims related to the Agreement?**

By entering into the Agreement, except where the Canadian Radio-television and Telecommunications Commission, or voluntary arbitration has jurisdiction, you consent to the exclusive personal jurisdiction of and venue in a court located in Cranbrook, British Columbia for

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any suits or causes of action connected in any way, directly or indirectly, to the subject matter of the Agreement.

### **36. What if parts of this Agreement become unenforceable?**

If any part of this Agreement becomes outdated, prohibited or unenforceable, the remaining terms will continue to apply to you and Swift Internet. Even if Swift Internet decides not to enforce any part of this Agreement for any period of time, the term still remains valid and Swift Internet can enforce it in the future.

### **37. What laws apply to this Agreement?**

The provincial laws of British Columbia and federal laws of Canada applicable in that province govern this Agreement.

### **38. Can this Agreement be transferred?**

Swift Internet may transfer or assign all or part of this Agreement (including any rights in accounts receivable) at any time without prior notice or your consent. You may not transfer or assign this Agreement, your account(s) or the Service without Swift Internet's prior written consent.

### **39. Do any terms or obligations of this Agreement apply after the cancellation or expiry of the Agreement?**

Yes. The cancellation, transfer or expiry of a Service Agreement or the Agreement shall not release you or us from any obligation which has accrued prior to that event including but not limited to the obligation to pay any outstanding amounts owed for Services.

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## HOW TO CONTACT SWIFT INTERNET

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### **40. How do I contact Swift Internet?**

To contact Swift Internet for any reason, including providing notices to Swift Internet pursuant to this Agreement, you may reach us:

- By Phone: 1-250-402-9420
- By email: [contact@swiftinternet.ca](mailto:contact@swiftinternet.ca)
- By Mail:

P.O. Box 624  
Creston, BC  
V0B1G0

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### 41. How do I contact Swift Internet for technical support?

Unless otherwise provided in a Service Agreement, Swift Internet offers technical support for its Services between 9:00 AM and 5:00 PM from Monday to Friday, with the exception of provincial and federal statutory holidays. You may contact Swift Internet for technical support via the contact information set out above in Section 40. You may also call 1-250-428-3113 at any time of day to receive an automated network status update.

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## MONTHLY DATA USAGE

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### 42. How do I monitor my monthly data usage?

At any time, you may log on to a customer portal on the Website to monitor your data usage for the current monthly billing cycle. The Website customer portal also provides you with access to reports of your data usage information from previous months.

### 43. Does Swift Internet provide any notifications related to data usage?

Yes. Swift Internet will provide you notices of your monthly data usage when you reach 75%, 90% and 100% of your monthly data allowance.

### 44. What kind of data usage can I expect from common online activities?

Here are some helpful estimates associated with common applications of Internet services:

(1 Megabyte “MB” = 1024 Kilobytes “KB”)

	<b>Data use estimate</b>
<b>Emails</b>	50-300 KB each
<b>SD photos</b>	100-500 KB each
<b>HD photos</b>	2 MB each
<b>SD video streaming</b>	1,000 MB per hour
<b>HD video streaming</b>	3,000 MB per hour
<b>4k / UHD video streaming</b>	7,000 MB per hour
<b>Downloading SD movies</b>	700 MB per hour
<b>Streaming audio</b>	100 MB per hour
<b>Online gaming</b>	50-100 MB per hour

These estimates are *intended as a guideline and actual use may vary.*