

## **GENERAL TERMS AND CONDITIONS FOR FAX SERVICES --- Luxatel SA**

### **Article 1: General dispositions**

The present general terms and conditions (the "Terms and Conditions") are applicable to the delivery of Luxatel fax services. Luxatel SA ("Luxatel") is only bound to execute the services after having accepted an order/mission from the customer and this, after having received the customer's payment. The Terms and Conditions are deemed to be accepted by the customer upon filling out the order form or completing the subscription procedure. The Terms and Conditions and any and all specific agreements represent the full and sole agreement between both parties and replace all previous oral or written agreements, proposals, promises, contracts or communications related to the subject of the specific agreement. Conflicting conditions emanating from the customer are not applicable and will not be binding to Luxatel. Luxatel reserves the right to alter, expand or terminate its services and will notify the customer of such actions in a timely manner.

### **Article 2: Luxatel fax services**

#### **Article 2.1: Attribution of a fax number**

- To obtain the attribution of a fax number, the customer must complete the subscription procedure.
- Immediately after subscription, the customer will receive his (provisional) invoice in his e-mailbox.
- After having received the customer's payment of this provisional invoice, a personal fax number is activated and the customer will also receive the (definitive) invoice through e-mail and postal mail.
- The fax number the customer receives is attributed from a pool of numbers available to Luxatel. This number can be used for Luxatel fax services, Luxatel remains the proprietor of the fax number, the customer is only entitled to use this number while the agreement with Luxatel is in effect. The fax number is strictly personal and it is not permitted to transfer this number to or authorise its use by third parties. Luxatel reserves the right to modify the fax number or to retract it under special conditions, after having notified the customer.
- Upon termination or cancellation of Luxatel services, the customer is free to transfer the fax number to another service provider in order to continue using it. This free transfer to another service provider is only possible if the number was not attributed by Luxatel, but was previously transferred to Luxatel from another service provider.
- Via a login and password, the customer has access to a personal control panel where the customer can manage his fax number and check the past 3 months' incoming faxes.

#### **Article 2.2: Sending faxes**

- It is possible to send faxes to all countries via the online control panel.
- To do so, the customer must first purchase credit (with each activation, you will receive 20 Euros' worth of free credit), with which faxes can immediately be sent.
- The faxes are invoiced per sent page.

### **Article 3: Rates**

Rates announced by Luxatel in the frame of offers are never binding, unless it was explicitly indicated that they are definitive. The definitive rates mentioned in offers are only valid for 15 days. All rates mentioned are excluding VAT. All rates can be adjusted on a yearly basis.

### **Article 4: Term of delivery, payment and objection**

The terms of delivery announced by Luxatel are indicative and non-binding, unless explicitly agreed upon otherwise. The terms are always stated in work days. Delayed delivery will under no circumstance confer the right to annul an order or claim damages. Any complaint related to the delivery of the fax services, whichever its nature, has to be notified by the customer to Luxatel by registered post within a period of 8 work days starting from the start date of the fax services.

Possible complaints regarding the delivery of services cannot be used as a motive for the non-payment or the delayed payment of invoices. The absence of a written objection to an invoice within 7 work days after its mailing date entails irrevocable acceptance of the invoice and the amounts and services mentioned thereon.

Invoices must be paid before their expiry date. If the invoice has not been paid on its expiry date, a contractual interest of 1 % per month will be owed, as of right and without formal notice, each started month counting for an entire month. Furthermore, any late payment by the customer entitles Luxatel to charge an administrative fee of 50 Euros. All costs resulting from the enforcement of payment through judicial channels, including lawyers' fees (with estimated costs of at least 500 Euros per case), will be borne by the customer.

#### **Article 5: General obligations of the customer**

The customer will use the fax number and fax services of Luxatel in agreement with the indications and instructions given by Luxatel. This means e.g. that the customer can only have messages sent to an e-mail address over which he has direct control or of which he has obtained explicit authorisation of use.

The customer will keep the password provided by Luxatel (and possibly modified by the customer) confidential and safe. The customer bears full responsibility for password usage, as well as for the use of Luxatel fax services. Any use of Luxatel services to which the customer has gained access by means of his password or to which a third party has gained access (either lawfully or unlawfully) by means of this password, is therefore deemed authorised by the customer and will take place at the customer's own risk.

Furthermore, the customer is not authorised to:

- use, access or try to access data, computer systems, networks, databases or software without their owner's explicit consent to the customer, or to modify, delete, deteriorate or add to data belonging to a third party without having obtained authorisation to do so by said party;
- create, introduce or spread computer viruses;
- spread pornographic or ethically questionable content, including but not limited to content that violates the honour of under aged persons or private life and/or human dignity, and content that expresses or induces discrimination.

#### **Article 6: Duration and termination of the agreement**

The agreement has an initial duration of one year as from the completion of the subscription procedure. The agreement is prolonged automatically every year, for periods of one year. The customer can terminate the agreement until 1 month before the prolongation of the agreement. If the customer wishes to terminate the agreement earlier, no refunds will be possible. Non used faxcredits will not be refund.

If the customer does not fulfil his obligations, as they are stated in article 5, and/or in any other case of abuse of the Luxatel fax number or Luxatel fax services, Luxatel is entitled to immediately terminate the agreement without prior formal notice. In this case, Luxatel has the right to take back or retract the attributed fax number immediately and without having to notify the customer beforehand. Luxatel is entitled to attribute the fax number to another customer.

If the customer uses a fax number beginning with area code (070), and the fax number does not receive at least one message per month, Luxatel has the right to take back or retract the attributed fax number after having notified the customer.

### **Article 7: Liability**

The customer bears full liability for the rightful use of fax services according to specifications, documentation and instructions provided by Luxatel.

Luxatel will only be liable with respect to the customer for the actual and proven damage resulting from obligations contained in the agreements entered into with Luxatel, excluding other implicit or unwritten obligations and excluding all cases described below. Per claim or series of claims derived from the same event or the same cause, the liability of Luxatel derived from or related to an agreement entered into with Luxatel will in no case exceed the total of amounts invoiced to and paid by the customer for services over a period of 3 months and related to the specific project to which the claim pertains.

In no event will Luxatel be held accountable for damage of any kind resulting from or related to:

- use by the customer of the Luxatel fax number or fax services;
- malfunctioning or not functioning Luxatel fax services (including malfunctioning or not functioning Luxatel services due to malfunctioning or not functioning services provided by Luxatel partners, telecom operators or internet service providers);
- the content and the visual or auditory intelligibility of the material sent by Luxatel to the customer;
- the fact that third parties can read or hear the content of messages meant for the customer;
- modification, expansion or termination of Luxatel fax services;
- problems related to the internet connection, hacker attacks, line switching or the use by the customer of outdated computers or software, the telephone, electronic, hardware or software programs, the network, internet or computer defects and flaws or any other kind of problem;
- failed, incomplete, altered or delayed computer transmissions;
- possible printing or typing errors, online or offline;
- possible damage, loss or injury incurred via or as a result of the services;
- overdue, lost, delayed, deteriorated, erroneously sent, incomplete, illegible, unintelligible or non-postmarked messages, exemption forms, sworn statements or other correspondence.

Moreover, Luxatel will in no event be held liable for indirect damage like e.g. commercial or financial losses, loss of data, loss of reputation, revenue or profit, loss of customers and losses resulting from judicial procedures undertaken by third parties against the customer.

### **Article 8: Intellectual property**

The entire content, organization, collection, magnetic translation, digital conversion, web documents, illustrations, pictures, logos, animations, sound fragments and programs, including software and other things related to Luxatel fax services are protected by copyright and other possibly applicable property rights (including but not limited to intellectual property rights) and any reproduction, redistribution or publication of part of the content or part of the fax services belonging to Luxatel is prohibited.

All software, including but not limited to all HTML code and Java code related to Luxatel fax services are the property of Luxatel and are protected by copyright and other possibly applicable property rights (including but not limited to intellectual property rights). The collection (meaning the collecting, organizing and grouping) of the entire content of Luxatel fax services is the exclusive property of Luxatel and is protected by Luxemburg law. Any other use, including reproduction, modification, dissemination, relocation, republication, exhibition or presentation of the contents of Luxatel software and fax services are strictly prohibited.

**Article 9: Processing of personal information**

In order to be able to perform its obligations, Luxatel collects, as the entity responsible for processing, personal information of the customer. This personal information can also be used by Luxatel for direct marketing purposes. Doing this allows Luxatel to regularly inform customers of its activities. If the customer does not want his information to be used for such purposes, he can make this known by writing to the following e-mail address: [administration@Luxatel.lu](mailto:administration@Luxatel.lu). The customer can consult, correct or modify his personal information by sending an e-mail to [administration@Luxatel.lu](mailto:administration@Luxatel.lu) from an e-mail address registered with or known by Luxatel.

Under no circumstance will this personal information be provided to third parties. Luxatel reserves the right to modify this privacy statement at all times, in agreement with the personal data protection act of December 8<sup>th</sup>, 1992.

**Article 10: Various provisions**

The rights and obligations of the customer deriving from the agreement entered into with Luxatel can be transferred neither in part nor in full to a third party without the prior written consent of Luxatel. If a provision in an agreement entered into with Luxatel or the execution of such a provision should become or be unexecutable at any level, under any condition or for any one of the parties, the other provisions of the agreement will remain in full force.

**Article 11: Applicable law and exclusive jurisdiction**

Luxemburg law is applicable to all agreements entered into with Luxatel. Any dispute related to the agreements entered into with Luxatel will be exclusively handled by the courts of Luxemburg.