

# Special conditions for the SWICA Guide

## 1 General information about SWICA Online Services

SWICA Healthcare Insurance Ltd. (acting for all group companies of SWICA Healthcare Organisation, in particular SWICA Insurance Ltd., SWICA Management Ltd., PROVITA Gesundheitsversicherung AG, hereinafter “SWICA”) offers a range of online services on a variety of digital applications (hereinafter “Online Services”) to its customers and to persons and/or companies, public-sector institutions, associations and clubs which have a legal relationship with SWICA (hereinafter “Users”). The Therapist Portal (hereinafter the “SWICA Guide” or “platform”) provided by SWICA is one such online service.

Use of the SWICA Guide requires prior consent to the General Terms and Conditions for SWICA Online Services (hereinafter the “GTC”) and to these “Special Terms and Conditions for the SWICA Guide” (hereinafter the “SWICA Guide Terms and Conditions”). These SWICA Guide Terms and Conditions supplement the GTC and take precedence over the GTC, unless expressly defined otherwise. The SWICA Guide Terms and Conditions can be supplemented, modified or replaced in accordance with section 1.2 of the GTC. Information about changes will be provided in the SWICA Guide and will require Users to give renewed consent to the SWICA Guide Terms and Conditions. The SWICA Guide data protection declaration applies to the processing of personal data. The SWICA Guide Data Protection Declaration is an integral part of the SWICA Guide Terms and Conditions. Except as expressly provided in the SWICA Guide Terms and Conditions, the Data Protection Declaration supersedes these SWICA Guide Terms and Conditions. The General Terms and Conditions for Online Services are available [here](#), and the data protection declaration can be found [here](#). The exclusive use of the SWICA website is subject to the provisions of the SWICA websites. These can be accessed [here](#).

## 2 General information about the SWICA Therapist Portal

SWICA operates a portal under the domain name [www.swica-guide.ch](http://www.swica-guide.ch) and may in future use other domain names (SWICA Guide, see section 1) on which qualified specialists and therapists can present the range of therapies and services that they can provide to SWICA customers/registered Users and offer these services directly to Users for booking an appointment. In providing this portal, SWICA is creating a central online directory of therapists and qualified specialists who are recognised by SWICA. The portal also makes it possible to make bookings and arrange appointments directly. Initially the SWICA Guide will only be available to Users who are insured with SWICA.

## 3 Definitions

SWICA Guide:	This is a platform operated by SWICA. References to the SWICA Guide always imply SWICA as the legal entity.
SWICA:	This is the portal operator. The SWICA Group, consisting of SWICA Healthcare Insurance Ltd., SWICA Insurance Ltd., PROVITA Gesundheitsversicherung AG, ProVAG Versicherungen AG and SWICA Management Ltd. In the present case, SWICA Healthcare Insurance Ltd. is meant as the operating legal entity.
Users:	This term includes all SWICA customers (insured persons) who create a profile on the platform with the intention of using the services of therapists.
Visitors:	Visitors are all those who visit the SWICA website but do not create a profile on the platform.
Therapists:	These are all individuals and companies who have registered on the platform and can use the functionalities of the platform to offer their services as qualified specialists and therapists.
Partners:	These are third parties who offer their services via the portal or whose services are linked to the portal (e.g. linked booking platforms such as coachfrog).
Third parties:	These are companies which provide services for the operation of the SWICA therapists’ directory on behalf of SWICA.

## 4 Are all services provided by SWICA?

SWICA acts solely as an information, communication and mediation platform between Users and therapists. SWICA itself does not provide any further services; in particular it does not offer any therapy services itself. SWICA has no influence on the actions, decisions or quality of the services booked. Before posting a therapist’s details to the website, SWICA checks the therapist’s SWICA recognition and the therapy methods recognised by SWICA on the basis of the professional affiliation requirements of recognised associations. SWICA does not, however, accept any responsibility for the actions performed by therapists. The therapist profiles are created by the therapists themselves and SWICA does not verify the information contained in them.

## 5 Which services are provided by SWICA?

In particular, SWICA provides the user with the following services for appropriate use. Users can:

- Create user profiles
- Create therapist profiles
- Search the list of SWICA-recognised therapists
- Make an online booking of therapist services (if activated by the therapist)
- Enter billing preferences (including agreement as to whether the therapist can invoice SWICA directly for services rendered)
- Administration area for therapists (customer and calendar administration) and connection to preferred software partners (e.g. Healthadvisor, Coachfrog, Softplus)
- Support services relating to the use of the SWICA Guide
- Automatic billing of therapy sessions between therapists and SWICA via preferred software partners
- Assumption of the collection risk according to third-party payment rules provided that the therapist agrees to the terms of use and the electronic third-party payment agreement between SWICA and the respective therapist and uses the software of one of the preferred software partners (e.g. Healthadvisor, Coachfrog, Softplus) to invoice the services booked and provided via the SWICA Guide

Therapy services are booked at no additional cost. However, therapy services provided by therapists are not free of charge; the user can choose the billing method when registering or define it in his profile settings.

The information and services offered on the portal are intended for information purposes only and can never be a substitute for professional advice or treatment by a doctor.

## 6 How can I gain access to the SWICA Guide?

Unless otherwise defined in these SWICA Guide Terms and Conditions, use of the SWICA Guide is subject to the provisions of section 2 of the Online Services GTC.

In order to use the full range of services available in the SWICA Guide, the user or therapist must register and create a personal profile. This requires a valid e-mail address and mobile phone number. Users and therapists must also provide information about themselves and their place of residence/business. Users/therapists are the owners of their own profile data and undertake to provide truthful information, particularly in relation to themselves. Following registration, the user must validate his e-mail. The SWICA Guide's full features cannot be used until validation has been completed.

The user is responsible for ensuring that his contact details are always up to date. If there are grounds for thinking that a user or therapist has made false statements in his profile, SWICA reserves the right to block or delete the profile. Moreover, if there are grounds for thinking that the information was provided with fraudulent intent, SWICA reserves the right to notify the prosecuting authorities. Section 8 regulates the processing of personal data.

## 7 Will I be given a password?

SWICA provides Users and therapists with a user account and a personal password which together enable them to access their personal profile and the associated functions. Information relating to the user account and password must be treated in confidence, stored securely and may not be shared with other persons (see also sections 3 and 5 of the Online Services GTC). Any security breaches must be reported to SWICA. If there is reason to believe that unauthorised persons have knowledge of the password, the password must be changed immediately. Users and therapists are responsible for changing their password regularly. Users and therapists can change their password at any time and are responsible for doing so.

## 8 Data protection

SWICA undertakes to observe the regulations relating to the protection of personal data and data security (in particular the Swiss Data Protection Act) and to take the necessary measures when processing personal data. As regards use of the SWICA Guide, the provisions of the Data Protection Declaration (see section 1) apply to the processing of personal data.

In the case of services provided by third parties, data may be shared with third parties. If a user is forwarded to a service, the data protection regulations of the third party apply. Information relating to contracted data processing agents can be found in the Data Protection Declaration.

After accepting a booking request, the therapist receives the necessary personal data relating to the user. The data may only be used for the purposes of arranging, providing and administering therapy services.

### How does SWICA back up my data?

SWICA regularly backs up the stored data. SWICA takes appropriate precautions to avoid data loss in the event of server failures. The SWICA Guide is not an archiving platform; Users are responsible for backing up their own data. SWICA will delete any displayed invoices or past appointments after a reasonable period of time. SWICA accepts no liability for the loss of data in the event of system failures, power outages or other malfunctions in the data centre. Further provisions relating to data security can be found in the Data Protection Declaration.

## 9 How can the SWICA Guide be accessed?

SWICA has outsourced the operation of the SWICA Guide to a computer centre under a contracted data processing agreement. The highest possible level of availability was agreed with the computer centre provider. Nevertheless, SWICA cannot guarantee that the platform will be available at all times and without interruption. In particular, interruptions to the platform may be due to force majeure or reasons outside SWICA's control (e.g. telecommunications failures or malfunctions at the computer centre). Any liability in this respect is excluded to the greatest extent possible.

## 10 Who is liable for damage?

SWICA rejects, to the extent permitted by law, any liability for damages arising out of or in connection with the use of the platform and offers no guarantees. Unless stipulated otherwise in section 11 of the GTC, SWICA accepts no liability for:

- a. the accuracy and completeness of the data as displayed, electronically transmitted or printed
- b. the services or actions of Users who communicate via the portal
- c. the realisation of the risks inherent in the internet (e.g. technical or organisational difficulties in receiving or transmitting data, transmission errors, technical defects, malfunctions or interruptions of the telephone network or internet access, regardless of the cause, illegal interventions in network equipment, the covert introduction of viruses, the copying and falsification of data and content, network overload, malicious or accidental blocking of electronic access by outsiders
- d. links to other websites
- e. misconduct on the part of Users
- f. services provided by and for therapists, specifically no liability for lost revenues and profits, lost contracts, loss of goodwill or other intangible losses or for indirect or consequential loss or damage
- g. damage caused by restricted or blocked access
- h. the non-detection of forgeries, identification defects and the disregard of identification regulations
- i. the use of user hardware and/or software with inherent security and/or functionality shortcomings

## 11 How long does my contract last?

Use of the SWICA Guide may be terminated at any time. Termination occurs when the user profile is deactivated. Deletion of the user/therapist profile will be confirmed to the user/therapist. Some profile data must be retained for legal reasons and to fulfil archiving requirements and cannot be deleted immediately (see Data Protection Declaration). Data stored in backups is not subsequently removed.

## 12 When can SWICA block or delete your profile?

SWICA may block or delete a user or therapist at any time without giving a reason for doing so. The uploading of falsified documents or the posting of incorrect information will lead to immediate exclusion from the therapist portal; the right to take legal action remains expressly reserved. Access may also be blocked or restricted due to maintenance work or security issues. Any decision taken by SWICA in this regard is at its general discretion. In addition, SWICA may take further measures at any time to combat abuses; such measures may include criminal charges and claims for damages.

## 13 Prohibition of pornographic and criminal content

SWICA Users are strictly prohibited from sharing pornographic, racist or criminal material via the portal or uploading it to the portal. Any such misuse will be punished by criminal law and, where appropriate, by further legal means.

## 14 Prohibition of the exertion of dogmatic, sectarian or religious influence

Any attempt to exert dogmatic, sectarian or religious influence on the user or in connection with therapeutic work, any promises of healing, distance healing, fortune-telling, treatment of a sexual nature or similar offers are prohibited. Failure to comply with this prohibition constitutes a material breach of contract, enabling SWICA to terminate the contract immediately. SWICA reserves the right to immediately delete therapist profiles with such or similar contents without prior notice or further justification.

## 15 How are intellectual property rights regulated?

The user and the therapist are prohibited from using content protected by law (e.g. copyright, trademark or patent law) unless entitled to do so. If a user or therapist breaches this rule and SWICA suffers damage as a result, the individual in question will be liable to SWICA for the damage. All rights to the SWICA Guide and its contents remain the permanent property of SWICA. The therapist hereby grants SWICA a non-exclusive, royalty-free, worldwide right and licence (or sub-licence) to use, reproduce, distribute, sub-license, transmit and make available the profile content and any other information provided to SWICA.

## 16 Services provided at a cost

Users and therapists can use the therapist portal free of charge. Only the use of the SWICA Guide (i.e. searching profiles and making appointments) is free of charge. The services of therapists are billed separately. The additional costs which partners charge therapists directly in relation to bookings are not taken into account. These costs are part of the contractual relationship between the partner and the therapist.

## 17 Special provisions for Users

The user is required to answer all questions truthfully. Providing incorrect information can lead to the immediate blocking and deletion of the user account. If claims for damages are asserted on this basis, the user is liable for them.

### **Cancellation and rebooking of appointments**

Bookings made via the SWICA Guide are generally binding and may result in costs being charged directly by the therapist if the customer fails to show up on time (or fails to give at least 72 hours' notice). If a user wishes to change the date and/or time of an appointment, he must contact the therapist at least 72 hours before the appointment. The therapist will try to offer the user a suitable alternative date and/or time. If this is not possible, the appointment can be cancelled by the user. Repeated non-appearance on booked dates may lead to suspension or even exclusion from the SWICA Guide. If the user would like the costs to be settled directly between the therapist and SWICA, he can specify this when registering or in his profile. Direct billing can only take place if the user has given his consent.

## 18 Special provisions for therapists

Therapists have no automatic right to create a profile on the portal. The therapist must first be recognised by SWICA. SWICA performs a preliminary review prior to registration and reserves the right to refuse a therapist access to the SWICA Guide without giving reasons. The therapist is required to enter his profile truthfully. Any breach of this requirement can lead to immediate exclusion. SWICA is entitled to take a profile offline or delete it without giving reasons. In case of doubt, SWICA may demand appropriate proofs. Providing incorrect information can lead to the immediate blocking and deletion of the account. If claims for damages are asserted on the basis of incorrect information, the therapist is liable for them.

The therapist must always provide the services on the profile at a price which corresponds to the best available price offered on the specialist's own website and/or on the therapist's profile, as the case may be. If a user can show that a better price is offered on the therapist's own website for services booked via the SWICA Guide, SWICA reserves the right to reimburse the difference to the user and charge the difference to the therapist.

The therapist must accept all bookings made via the SWICA Guide if he has the capacity and may only refuse to accept them in exceptional and justified cases; otherwise the therapist will be deemed to have committed a material breach of this agreement, which may result in the blocking or deletion of his profile.

## 19 Indemnification of SWICA

The therapist hereby agrees to indemnify and to keep indemnified and hold harmless SWICA and its officers, directors and employees from and against any and all claims, demands, obligations, actual or alleged causes of legal proceedings and actions, damages, liabilities and fines, judgements, costs (including the costs of settling legal cases), related expenses (including payment of reasonable legal fees, attorneys' fees and expenses) and losses (including but not limited to direct, indirect or consequential damages, loss of profits, loss of reputation and all interest, penalties and court costs (calculated on a full cost basis)) and all other reasonable fees and expenses for services arising out of or in connection with any breach of contract by the specialist or any action brought by a third party in connection with the services provided (or not provided), or acts (or omissions) of the therapist or any other person acting on the therapist's behalf (other than SWICA), including but not limited to proceedings brought in connection with applicable data protection laws, content on the profile, or a user's visit to the therapist's place of performance.

This section continues to apply even after notice has been given on the contract or the contract has been terminated.

## 20 Changes to the GTC

The General Terms and Conditions for Online Services apply.

## 21 Applicable law

The General Terms and Conditions for Online Services apply.