

General Terms and Conditions for IncaMail

1. Area of validity

These General Terms and Conditions govern the relationship between customers (hereinafter "the Customer") and Swiss Post (hereinafter "Swiss Post") with regard to the use of the IncaMail platform and the services based on it (hereinafter "IncaMail").

2. Subscriber conditions and terms of use

2.1 Registration

To use IncaMail, the Customer must register online.

During the registration process, the Customer must click on the relevant button to accept explicitly these General Terms and Conditions. These then become part of the contract and can be accessed on the website www.incamail.ch.

The Customer guarantees to provide only truthful information when registering. Should any details change (especially his domicile address), the Customer shall update his data without delay.

The Customer undertakes to verify his data within a period of 30 days. If he fails to do so, Swiss Post may delete the account in question without prior notice. Swiss Post reserves the right to free the Customer from the obligation to verify his data if he has already been verified by a different means (e.g. SuisseID registration).

By using IncaMail, the Customer agrees that the sender or recipient of a message may be given access to his domicile address on the basis of his e-mail address.

The Customer also agrees that only registered persons and companies with a billing or domicile address outside of the United States of America (USA) are allowed to send, forward, or reply to messages using IncaMail. Registration for reception of messages is possible for persons and companies in the USA.

Swiss Post may refuse registration applications without giving any reasons or grant some Customers restricted access to IncaMail (e.g. enabling them to receive messages only).

2.2 Validity of certificates

Swiss Post has the right to check the validity of any certificates used during login in accordance with the customary standards. If the issuer of a certificate fails to respond, the certificate is deemed invalid. The Customer cannot log on with a certificate that has been deemed invalid or has expired.

3. Service description

3.1 General

IncaMail enables the encrypted transmission of electronic messages. The Customer can request confirmation of the mailing and collection of his messages via the platform. Depending on the mailing method chosen, the Customer may receive an electronic receipt with a digital signature from Swiss Post.

The Customer is responsible for adding a digital signature to messages and/or related attachments sent via IncaMail if requested or required.

3.2 IncaMail functions

The IncaMail service offering (e.g. the different mailing methods and their special features) is described in the latest version of the Swiss Post brochures, as well as at www.incamail.ch. Some options relating to the exchange of messages are only available to the Customer if he logs on with a certificate.

3.3 Delivery of electronic messages

Message recipients who are not already IncaMail Customers must register with IncaMail before they can open their messages. The identification level required by recipients depends on the mailing method in question. To use certain receipt or mailing options, the Customer requires a valid certificate approved by Swiss Post.

If a recipient is registered with a different secure e-mail platform which is interoperable with IncaMail, the Customer or sender's message may be transferred to the other platform. It then no longer lies within the area of responsibility of Swiss Post. Swiss Post will provide the Customer or sender with possible receipts based on the confirmation of the other platform.

Messages are delivered seven days a week.

3.4 Opening of messages and receipts/collection deadlines

It is the Customer's responsibility to save messages and receipts, which have been mailed or received via IncaMail, on his system for verification purposes. When saving them, the Customer must ensure that their contents and the exchange of messages can be reconstructed beyond any doubt if so required.

The Customer requires an Internet connection to open messages and receipts. The Customer himself is responsible for providing a properly functioning and sufficient Internet connection. Deliveries can only be

made to valid e-mail addresses and to properly functioning recipient systems.

For some mailing methods (currently Swiss Post registered mail and eGov registered mail), the deadline for opening messages is seven days. After seven days, the recipient may no longer open these messages if he has not already done so. The sender and recipient will be notified accordingly.

Collection deadlines and availability are calculated on the basis of **all** days – including Saturdays, Sundays and public holidays.

3.5 Communicating with the Swiss authorities (as of 1 January 2011)

Communication with the authorities is based on a subscriber directory prescribed by the Swiss Confederation. This contains all persons/users who wish to receive deliveries as electronic messages (in accordance with the Ordinance of 18 June 2010 on electronic transmission as part of civil and penal proceedings, as well as debt collection and bankruptcy suits, and the Ordinance of 18 June 2010 on electronic transmission as part of administrative procedures). The Customer may choose whether he wishes to communicate with the authorities via IncaMail and thus be added to the subscriber directory or not. To be included in the directory, the Customer must have a specific identification level, as set forth by the Confederation.

3.6 Loss of a password

If the Customer loses his password, he may set a new password, provided that he answers a security question correctly. If he fails to answer the relevant security question correctly, access to the account in question can no longer be granted.

4. Customer's obligations

The Customer undertakes not to breach any contractual or legal obligations when using IncaMail and, in particular, not to send any messages containing unlawful content, viruses or spam. The Customer is responsible for the careful safekeeping, proper use and quality of his password and certificate. He must change his password or revoke his certificate immediately if he knows or suspects that an unauthorized person could have gained knowledge of or access to it.

5. Prices and payment terms

5.1 Prices

The use of IncaMail is subject to charges. The prices and pricing models published at www.incaemail.ch apply.

If a message cannot be delivered, the Customer will be charged the same price as for a successful delivery. In other words, the amount paid is not reimbursed to the Customer (e.g. in the event of typing errors in an e-mail address or unavailability of a recipient system). Any fees paid in advance will not be reimbursed if the Customer terminates the contract. No interest is paid on the customer's credit balance.

5.2 Billing

Invoices are payable within 30 days to the account indicated on the invoice.

If an invoice is not paid despite two reminders, the Customer may be prevented from accessing IncaMail, without prior notice, until the invoice amount has been paid in full.

5.3 Default interest and processing fees

If a payment deadline elapses without payment being made and a reminder has to be sent, the Customer is charged a fixed administration fee of CHF 20 (including VAT) for the second reminder and for any further action required to collect the amount owed. Swiss Post reserves the right to charge for additional costs, especially those incurred for debt enforcement or legal proceedings.

If the Customer is in arrears with an amount due, default interest will be charged at seven percent (7%) p.a., in addition to all the costs.

5.4 Payment by credit card

If the Customer pays by credit card, he authorizes Swiss Post to assign its claims to the credit card company in question. In this case, the terms and conditions of the credit card contract shall apply.

5.5 Set-off

The Customer may not settle outstanding bills from Swiss Post by means of counterclaims.

6. Notice of termination

6.1 Statutory notice of termination

Use of IncaMail may be terminated by the Customer or Swiss Post at any time, subject to a period of notice of ten days to the end of a month. Notice of termination may be made in writing or via IncaMail.

6.2 Extraordinary termination

The contractual relationship may be cancelled with immediate effect at any time if the Customer repeatedly breaches his contractual obligations

despite having received a warning from Swiss Post, or for any compelling reasons.

6.3 Termination owing to non-use

If IncaMail is not used for one year, Swiss Post reserves the right to terminate the Customer's use of IncaMail subject to a period of notice of 30 days to the end of a month. **Any remaining credit will not be refunded to the Customer.** Termination no longer applies if the Customer resumes his use of IncaMail within the period of notice.

6.4 Effects of termination

After expiry of the notice period, the IncaMail account can no longer be accessed and messages and receipts can no longer be decrypted. Therefore the Customer is responsible for saving all encrypted messages and receipts, which he wishes to access at a later time, in an unencrypted format in good time before the period of notice elapses.

7. Legal effect of electronic messages

The legal effect of electronic messages sent and received via IncaMail is determined by the legislation and jurisdiction of the courts. The Customer therefore uses IncaMail entirely at his own risk and benefit, especially where the meeting of deadlines is concerned. When dealing with courts and authorities, in particular, the Customer must clarify whether electronic communication is permitted at all and, if so, which requirements must be met. As far as deadlines are concerned, the Customer should note that delays can occur in electronic transmissions.

8. Caveat of foreign legislation

The legal effect described in these General Terms and Conditions is based on Swiss law.

The Customer acknowledges that the exchange of data with a (qualified) electronic signature and/or encrypted data outside Switzerland is subject to foreign legislation, and that the consequences may therefore be more far-reaching or less far-reaching than under Swiss law. The exchange of encrypted messages is also subject to legal restrictions in some foreign countries. The Customer is responsible for clarifying the situation.

9. Availability of IncaMail

Swiss Post ensures a high level of availability of the IncaMail platform, but cannot guarantee a specific level of availability. The Customer therefore has sole responsibility for carrying out deliveries and collections in good time to ensure that any deadlines may be met, even if system interruptions should occur.

Minor maintenance work can be performed daily outside business hours without prior notice. Our business hours are Monday to Friday from 8 a.m. to 5 p.m. CET.

10. Liability

Swiss Post will not accept liability for ordinary negligence. Swiss Post cannot be held liable for the proper functioning of third-party systems, especially the Internet, software used by the Customer or other e-mail platforms (determined by the recipient).

If the Customer sustains a loss or damage, he will be refunded an amount up to the amount which would be charged for mailing the cancelled or damaged message, as specified on the price list.

Swiss Post will not accept liability for losses or damages sustained by the Customer or third parties which are caused by the content of a message, especially viruses.

The Customer is liable for losses or damages sustained by Swiss Post or third parties, which are caused by the content of electronic messages or the improper use of IncaMail (contrary to contractual or legal requirements). If a third party asserts any claims directly against Swiss Post, the Customer undertakes to hold Swiss Post fully harmless. Swiss Post will inform the Customer immediately, should any such claims be asserted.

11. Involvement of third parties

Swiss Post may at any time engage third parties to provide its services.


12. Data protection

Swiss Post and third parties engaged by Swiss Post to provide services shall act in compliance with Swiss data protection legislation when processing data.

13. Amendments to the General Terms and Conditions

Swiss Post reserves the right to amend the General Terms and Conditions at any time. Amended General Terms and Conditions will be provided to the Customer and published at www.incamail.ch. The Amended General Terms and Conditions published at www.incamail.ch will take effect if the Customer does not cancel his use of IncaMail within the period of notice.

14. Severability clause



If individual provisions of this contract are found to be invalid or unlawful, the validity of the contract shall not be affected. In this case, the provision concerned shall be replaced with an effective provision which is preferably equivalent from a commercial point of view.

15. Place of jurisdiction

The place of jurisdiction is **Berne**.

For disputes arising from consumer agreements, the court at the place of residence or registered office of one of the parties is responsible for claims brought by the Customer, and the court at the place of residence of the defendant is responsible for claims brought by Swiss Post. Consumer agreements are agreements concerning services to be used by the Customer or his family.

In the case of Customers domiciled abroad, Berne will be the place of debt collection and sole place of jurisdiction for all proceedings.

16. Applicable law

The contractual relationship is governed exclusively by Swiss law.

17. Contact address for IncaMail

incamail@post.ch

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