

General Terms and Conditions

MAT[CH]move subscription

1 Scope and area of application

- 1.1 These General Terms and Conditions (GTC) govern the conclusion, content and execution of contracts between the customers (customer) and Swiss Post (Post) for using the MAT[CH]move subscription service.
- 1.2 The GTC are an integral part of the contract and are enclosed with the contract. The customer accepts the GTC by signing the contract.
- 1.3 Any customer's GTC are expressly excluded.

2 Post services

- 2.1 The Post sends the customer a CD-ROM with encrypted update data and relevant comparison software every month or as agreed.
- 2.2 The update data includes the most recent Swiss relocation addresses of physical persons which have been reported to the Post and which may be used for address update purposes (relevant approval by the persons concerned), official address adjustments and official death notices, insofar as these can be used to update the address.
- 2.3 The comparison software compares the customer's address book to the Post's update data. In doing so, the addresses in the customer's address book, for which a link can be made between old (address book) and new addresses (update data), are updated. The desired hit probability can be scaled by the customer in specified ranges.
- 2.4 The Post's data management team is available to provide the customer with information by telephone during office hours if the customer has any questions regarding the address update.

3 Customer duties

- 3.1 The customer must truthfully advise the Post of the size of its address book and the purpose of this. It commits to informing the Post of any changes in writing within 30 days.
- 3.2 The customer may only use the update data and comparison software to update its own contractually agreed address book in Switzerland. Forwarding to third parties, and address updates for third parties, are not permitted. A third party is in particular the parent firm, partner firms, subsidiaries and affiliates, as well as enterprises generally associated within the group.
- 3.3 The customer may only update addresses which already exist in its address book. The customer is aware that the update data is encrypted to protect against misuse, and contains control addresses. Decryption of update data is not permitted.
- 3.4 The update data may only be used in an unmodified form. Modifications are not permitted, except for the scalings specified by the system. The comparison software source code may not be decrypted through decompiling.
- 3.5 The update data and comparison software may only be loaded onto a data processing device at the customer's establishment for electronic address update purposes. Further copies are not permitted.
- 3.6 The customer must protect the update data and comparison software effectively from misuse (e.g. through access authorisations).
- 3.7 The customer may not make all or part of its own address book, updated using the Post's update data, accessible to third parties, forward this to third parties, or use this to update third party addresses, without prior written consent from the Post.
- 3.8 If the customer breaches its duties stated in point 3, the Post is entitled to enforce a **penalty** of half the annual subscription, but no less than CHF 20,000.00, per breach. Payment of the penalty does not exempt the customer from complying with the contractual obligations. It must be paid in addition to any damage compensation, irrespective of culpability.

- 3.9 The Post is entitled to assess the observance of duties as per point 3 at any time either itself or using a neutral agent of its choice. If the assessment shows that the customer has violated its duties, the customer bears the assessment costs.

4 Rights and scope of use

- 4.1 All rights to the update data and comparison software (incl. documentation) remain the property of the Post. The Post only grants the customer the sole, non-exclusive, non-transferable right to use the update data and comparison software during the contractual term to the contractually agreed extent.

5 Place of execution and transferral of benefits and risk

- 5.1 The place of execution is the headquarters of the Post's addresses centre in Kriens.
- 5.2 CD-ROMs or any other data transfers are sent at the benefit and risk of the customer.

6 Prices and payment methods

- 6.1 The prices are stated in the contract, and are exclusive of VAT.
- 6.2 The Post charges its services monthly, unless otherwise agreed. The invoices are payable strictly net within 30 days. The Post is always entitled to ask the customer for an advance payment, without stating reasons, or to shorten the payment term.
- 6.3 If the customer falls behind with payment of a debt, it must pay a default interest of seven percent (7%) per annum.
- 6.4 The customer cannot offset the Post's claims against any counterclaims.

7 Guarantee

- 7.1 The Post guarantees that the update data on the CD-ROM can be read for one year from the time it is sent to the customer, and that the comparison software may be used to the contractually agreed extent.
- 7.2 The Post has no influence over the completeness or quality of the updated data, as this is based on voluntary notifications from its customers and official death notices. It therefore excludes any guarantee for the completeness, topicality and postal accuracy of the update data, and therefore particularly also for the deliverability of letters using the updated addresses.
- 7.3 Defective CD-ROMS must be returned to the Post with an error description within 10 days of receipt. The Post replaces defective data carriers within a feasible time frame. Other warranty claims and associated damages claims are excluded.

8 Liability

- 8.1 The Post is liable for the careful and faithful rendering of the contractually agreed services. The Post is only liable in the event of deliberate acts or gross negligence. Any other liability, particularly also for subsequent damage or lost profit, is excluded.
- 8.2 The customer is liable to the Post for misuse of the update data. It must compensate the Post for any address update made illegally, including by third parties, for which it is responsible.

9 Data protection and confidentiality

- 9.1 The customer agrees that the Post may forward and process the customer data advised to it as part of the contractual relationship within the Post Group (Post head office, direct and indirect participation). The Post ensures that the data is not made accessible to third parties outside the Post Group.
- 9.2 Both parties treat all facts and information confidentially that are not obviously or generally accessible. In cases of doubt, the facts and information must be treated confidentially. The duty of non-disclosure continues after termination of the contractual relationship, subject to legal duties of disclosure.

10 Commencement, duration and end of the contract

- 10.1 The contract takes effect upon signature by both parties on the contractually agreed day, and is valid for one year. It is extended automatically by another year unless one of the parties terminates it by giving at least 3 months notice prior to the end of the contractual term.
- 10.2 The right to termination without notice for good reason is always reserved. Good reasons particularly include:
 - the occurrence of events or circumstances which make it infeasible for the terminating party to continue the contractual relationship, in particular the breach of the obligations in point 3 by the customer;
 - the official publication of initiated bankruptcy proceedings or moratorium on debt enforcement on one of the parties.
- 10.3 At the end of the contract, the customer must immediately, and without being requested to do so, return to the Post all data carriers, documentation and other documents provided to it as part of the contractual relationship, as well as destroy any copies.

11 Changes and additions

- 11.1 Changes and additions to the contract require written form.
- 11.2 Should individual clauses of this contract be incomplete, legally invalid, or infeasible for legal reasons, this does not affect the validity of the rest of the contract. In this case, the parties will reach an agreement to replace the clause concerned with a valid clause as economically similar as possible to the former clause.

12 Applicable law and place of jurisdiction

- 12.1 Swiss law applies exclusively.
- 12.2 **The place of jurisdiction is Bern.**

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