

# General Terms and Conditions

## Address maintenance

### 1 Area of application and validity

- 1.1 These General Terms and Conditions on Address Maintenance (hereinafter GTC) govern the business relationship between the Customers and Post CH Ltd (Wankdorffallee 4, 3030 Bern, Switzerland; hereinafter referred to as "Swiss Post") in connection with the use of services for the single or repeated updating and maintenance of customer addresses by Swiss Post with relocation data.  
References to persons apply to both women and men as well as to more than one person.
- 1.2 The GTC are an integral part of the contract and are enclosed with the latter. The Customer accepts the GTC by signing the contract or, in the case of online services, by electronic confirmation (e.g. by clicking "OK"). In the event of conflicts the contract shall take precedence.
- 1.3 Any customer GTC shall be explicitly excluded.

### 2 Services provided by Swiss Post

- 2.1 Swiss Post shall provide solutions to the Customer for (old) addresses that the Customer already had before the update, for which the Customer shall receive the most recent new addresses.
- 2.2 The update data held by Swiss Post comprise the latest Swiss and Liechtenstein (LI) relocation addresses of natural persons and legal entities which have been reported to Swiss Post and which may be used for performing address updates (with the consent of the persons concerned), official address adjustments as well as official notifications of death, as far as they are usable for address update purposes.
- 2.3 The address update is normally carried out on Swiss Post systems. For "Address maintenance by Customer", the update is implemented on the Customer's systems. The Customer shall receive software and install it on their systems. For further information, see section 5.
- 2.4 For the purposes of data transfer, Swiss Post shall make encrypted communications channels available to the Customer via the Internet (e.g. SFTP, HTTPS, WebTransfer).
- 2.5 Swiss Post takes care to comply with agreed delivery dates. A delivery delayed by a maximum of five working days shall be deemed to have been made on time.
- 2.6 Swiss 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 Services provided by the Customer

- 3.1 Unless there are other contractual agreements, the Customer undertakes to exclusively update addresses from its own address database.
- 3.2 Unless otherwise agreed in a contract, the Customer is not permitted to
  - update third party addresses, in particular to add third party addresses to the Customer's own address database in advance;
  - make all or part of the Customer's own address database, updated using Swiss Post's update data, accessible to third parties, forward this information to third parties or use this information to update third-party addresses.
- 3.3 In section 3.2 above, third-party addresses are addresses that did not belong to the Customer before the update and in particular, third parties also include the parent company, partners, subsidiaries and affiliates as well as companies generally linked to the group.
- 3.4 The use of updated addresses from its own address database is the Customer's responsibility.
- 3.5 The Customer shall ensure that Swiss Post is exclusively provided with the data required to fulfil the order.  
Swiss Post provides no guarantee as to the security and/or availability of any further and other data.

- 3.6 The Customer shall keep passwords, identification codes, login data, etc. safe and shall not make these accessible to third parties. The Customer shall be liable for all queries made using its username and password.
- 3.7 Securing technical access via the Internet and logging on to an online service is the Customer's responsibility.
- 3.8 The Customer acknowledges that the update data contains control addresses.
- 3.9 If the Customer does not fulfil their obligations set out in section 3 above, Swiss Post shall be entitled to claim a contractual penalty of CHF 20,000 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.
- 3.10 Swiss Post is entitled to assess the observance of duties as per section 3 at any time either itself or using a neutral agent of its choice. If the assessment shows that the Customer has violated their duties, the Customer shall bear the assessment costs.

### 4 Additional provisions

The conditions stipulated under sections 5 and 6 below shall also apply to customers of the products mentioned.

### 5 Address maintenance by Customer

- 5.1 Swiss Post shall provide the Customer with reference data with encrypted update data and relevant matching software every month or as agreed via a download centre.
- 5.2 The matching software compares the Customer's address database to Swiss Post's update data.
- 5.3 The desired hit probability can be scaled by the Customer in ranges specified by Swiss Post.
- 5.4 The Customer shall truthfully advise Swiss Post of the size of its address database and the purpose for which the address database is used. It undertakes to inform Swiss Post of any changes in writing within 30 days.
- 5.5 Decryption of update data is not permitted.
- 5.6 The update data may only be used in an unmodified form. Modifications are not permitted, except for the scalings specified by the system. The matching software source code may not be decrypted through decompiling.
- 5.7 The update data and matching software may only be loaded onto a data processing device at the Customer's premises for electronic address update purposes. Further copies are not permitted.
- 5.8 The Customer shall protect the update data and matching software effectively from misuse (e.g. through access authorizations).
- 5.9 As regards "Address maintenance by customer" service customers, in the event of a breach of their obligations under sections 3 or 5.3 to 5.8 inclusive, Swiss Post shall be entitled to apply a contract penalty totalling half the annual subscription, but amounting to at least CHF 20,000. All other provisions under section 3.7 shall apply accordingly.

- 6 Online services**
- 6.1 Online services are services that the Customer can receive following an electronic registration (login).
- 6.2 Online services are accessed via the Swiss Post Customer Center login (hereinafter referred to as "the Customer Center login") at [www.swisspost.ch](http://www.swisspost.ch) after successful authentication by the Customer. Use of the Customer Center login is not the object of this service. Inter alia, it requires the Customer to register for the Customer Center login and thus accept the General Terms and Conditions of the Customer Center login (available at [www.swisspost.ch/gtc](http://www.swisspost.ch/gtc)).
- 6.3 Unless otherwise agreed in a contract, the data provided to Swiss Post via the "Address maintenance online" online service for address cleaning shall be stored for three months following fulfillment of the order and then destroyed as appropriate. Customer addresses that are managed by the "Address maintenance online" online service are not affected by this.
- 6.4 For searched addresses, the date of the search (status) shall be displayed. If on this date an invalid address is found, Swiss Post shall determine the relevant forwarding address. It is possible that this forwarding address may differ from the current address as only the most recent relocation information is shown when searching.
- 6.5 If the "Address maintenance online" online service is unused for two years, the data shall be deleted in the address management system. The Customer shall be notified of this at a reasonable date in advance.
- 7 Rights and scope of use**
- All rights in relation to the update data and the matching software (incl. documentation) used remain with Swiss Post. The relocation data in particular remains the property of Swiss Post. Swiss Post grants the Customer the non-exclusive, non-transferable right to use the update data and matching software for the duration of the contract and within the contractually agreed scope of use.
- 8 Place of performance and transfer of benefits and risk**
- 8.1 The place of performance is the Swiss Post Address Competence Center in Kriens.
- 8.2 All data transfers are made for the benefit and at the risk of the Customer.
- 9 Prices and payment methods**
- 9.1 The prices are defined in the contract or openly publicized. They include VAT.
- 9.2 Swiss Post may stipulate an invoicing method and date for each product in the relevant contract.
- 9.3 The invoices are payable strictly net within 30 days. Swiss Post is always entitled to request advance payment from the Customer or to shorten the payment term, without stating reasons. Any reminders relating to outstanding payments, along with further payment collection costs, shall be charged to the Customer at CHF 20 per reminder. If the Customer is in arrears with the payment, default interest of 5% per annum shall be charged. Swiss Post reserves the right to assign unpaid invoice amounts to a debt collection company after sending a reminder without reply.
- 9.4 Payments made in advance (e.g. basic or annual fees upon conclusion of the contract) shall be neither fully nor partially reimbursed in the event of cancellation.
- 9.5 The Customer cannot offset Swiss Post's claims against any counterclaims.
- 9.6 In some cases, the use of fee-based services by the Customer requires an online payment in a manner accepted by Swiss Post, or sufficient credit in the Customer's account. If the credit is insufficient for the payment, the request may be denied and access to the service may be blocked.
- 10 Warranty**
- 10.1 Swiss Post has no influence over the completeness or quality of the update 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.
- 10.2 Defective reference data shall be reported to Swiss Post as soon as possible after it has been discovered. Swiss Post shall replace defective data within a feasible time frame. Other or more extensive warranty claims and associated damages claims are excluded.
- 10.3 Swiss Post endeavours to ensure maximum uninterrupted availability of the login, online services and functions. However, it does not guarantee an uninterrupted service, service at a certain time or the completeness, authenticity and integrity of the stored data or the data sent via its system or the Internet. Swiss Post shall keep short all interruptions necessary to rectify disruptions, implement maintenance windows or introduce new technologies, etc. and will carry them out during quiet times whenever possible.
- 10.4 The parties assure that they will only use and transfer data without defective software.
- 11 Liability**
- 11.1 Swiss Post does not accept liability for damage or loss resulting from incidental or ordinary negligence within the scope permitted by law. To the extent permitted by law, Swiss Post does not accept liability for direct, indirect or consequential damage such as loss of profit, loss of data or damage resulting from downloads. Swiss Post does not accept liability for damage or loss caused by auxiliary personnel and third parties it engages (e.g. sub-contractors, suppliers, etc.) resulting from incidental or ordinary negligence. To the extent permitted by law, Swiss Post does not accept liability for damage or loss resulting from improper use of its services (in breach of contract or law). Claims in respect of product liability and personal injury remain reserved. To the extent permitted by law, Swiss Post does not accept liability for losses arising from force majeure or disruptions occurring particularly due to lack of Internet connectivity, unlawful interventions in telecommunication devices and networks, overloading of the network, wilful blockage of electronic channels by third parties or interruptions.
- 11.2 The Customer is liable to Swiss Post for misuse of the update data. In addition to the contractual penalty payable, it shall compensate Swiss Post in full for any address update made illegally, including those made by third parties, for which it is responsible.
- 12 Data protection and confidentiality**
- 12.1 When collecting and processing personal data, Swiss Post complies with the current legislation, especially data protection law and the Postal Services Act. It safeguards customer data with suitable technical and organizational measures and treats it confidentially.
- 12.2 It collects, processes and stores personal data only to the extent necessary to provide these services, for the security of operations and infrastructure, for invoicing, and to manage and maintain customer relationships, specifically to ensure a high quality of service.
- 12.3 The Customer agrees that Swiss Post may forward and process the customer data advised to it as part of the contractual relationship within Swiss Post Group, provided this is necessary for rendering the contractually agreed services. Swiss Post guarantees that the data shall not be made available to third parties outside Swiss Post Group.
- 12.4 Both parties shall treat all facts and information which are neither evident nor publicly accessible as confidential. In case of doubt, facts and information shall be treated as confidential. The parties continue to be obliged to maintain confidentiality following termination of the contractual relationship. The duty of non-disclosure shall not apply if there are legal obligations of disclosure or if the relevant authorities must be notified of improper use of data.
- 12.5 The Customer acknowledges that with address searches made on its behalf, Swiss Post is required, within the scope of proof of interest compliance via information points, to disclose the identity of the Customer and other data.
- 12.6 For security and evidential purposes, both data delivery by the Customer and data delivery to the Customer shall be recorded in the back-up system of Swiss Post for a period of three months.
- 12.7 When personal data is processed, the Customer shall observe data protection law and remains exclusively obliged to disclose information to the persons affected by the processing of the data by Swiss Post throughout the process. They also remain the sole point of contact for those persons with regard to any other requirements pursuant to the Data Protection Act.
- 13 Involvement of third parties (processors)**
- The Customer agrees to Swiss Post involving third parties to render services and supplying the necessary data to the third parties involved. The processor is subject to the same obligations as regards guaranteeing data protection as Swiss Post itself and may not – unless the law states otherwise – process the data for its own purposes and only on behalf and on the instructions of Swiss Post. Swiss Post undertakes to select, instruct and monitor such service providers in a prudent manner.

## **14 Commencement, term and end of the contract**

14.1 The contract takes effect upon signature by both parties on the contractually agreed date, and is valid for one year. It renews itself automatically for a further year, provided that a cancellation is not issued by one of the parties at least three months before the end of the contract's duration.

The contractual relationship may be cancelled with immediate effect at any time if the Customer repeatedly breaches its contractual obligations despite having received a warning from Swiss Post, or for any other compelling reason.

14.2 At the end of the contract, the Customer must immediately, and without being requested to do so, return to Swiss Post all data carriers, documentation and other documents provided to it as part of the contractual relationship, and destroy any copies. Upon receiving the first request from Swiss Post, the Customer shall confirm in writing that it has returned all documents and destroyed all copies. Swiss Post has the right to check compliance with the responsibilities of section 14.2 of this contract at any time within three years of termination of the contract, in accordance with section 3.10.

## **15 Changes and amendments**

Changes and amendments to the contract must be made in writing.

## **16 Severability clause**

Should individual provisions of these GTC be invalid, incomplete or unlawful or prove impossible to implement, this shall not adversely affect the effectiveness of the other parts of the contract. In this case, the parties shall undertake to immediately replace the clause in question by an admissible effective clause whose content comes as close as possible to the original intention, unless this conflicts with consumer protection provisions.

## **17 Applicable law and place of jurisdiction**

17.1 The contract is governed by Swiss law. The UN Convention on Contracts for the International Sale of Goods (CISG, SR 0.221.211.1) shall not apply.

17.2 The place of jurisdiction is Bern. This is subject to the proviso of a partially or fully mandatory place of jurisdiction (cf. in particular Articles 32 and 35 of the Swiss Civil Procedure Code for consumers).

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