

# General terms and conditions

## Cross-channel campaigns

### 1. C1. Scope

- 1.1 These General Terms and Conditions (hereinafter GTC) govern the business relationships between the customers (hereinafter Customer) and Post CH Ltd (Wankdorffallee 4, 3030 Bern, Switzerland; hereinafter Swiss Post) in connection with the services described in the contract. Application of the Customer's general terms and conditions is expressly excluded.
- 1.2 The particular conditions with regard to the specific business are described in a separate offer, which shall take precedence over the GTC.

### 2. Service description

- 2.1 A cross-channel campaign can combine physical and digital marketing. Swiss Post offers new customer marketing and direct marketing.
- 2.2 New customer marketing supports the Customer in operating cross-channel, data-driven marketing. Based on the target group features provided by the Customer, potential new customers shall be evaluated and contacted digitally via e-mail or physically via addressed mail items either once or in several waves.
- 2.3 If an address match needs to be carried out, the Customer shall supply the corresponding data to Swiss Post or the third party involved. The data provided by the Customer shall be compared with the data from the customer database of Swiss Post or the third party concerned. We reserve the right to make arrangements to substantiate information.
- 2.4 The services provided by Swiss Post covered by the contract are defined in the offer, which forms part of the contract between the parties.
- 2.5 Swiss Post provides no guarantee of success for possible purchase agreements or similar.

### 3. Cooperation obligations of the Customer

- 3.1 The Customer shall actively support Swiss Post and its employees, as well as the third parties it involves in the performance of the contract (e.g. suppliers, subcontractors), in providing their services actively, promptly and free of charge in every reasonable way; cooperate on the provision of services; make the necessary preparatory and provisioning arrangements (including procurement of all necessary rights and permissions); and grant the required access to its premises and resources.
- 3.2 The Customer is also obliged to make available in a timely manner all data, information, documents and human resources that could be important for providing the service. Should the Customer receive data from Swiss Post or a third party, this data shall be processed once for the sole purpose of conducting the business concerned and must be permanently deleted afterwards.
- 3.3 The Customer shall support Swiss Post in adhering to the data protection rights of data subjects (requests for information, deletion requests, etc.) on request.
- 3.4 The Customer shall ensure that only data that fulfils the requirements of Art. 3 para. o of the Federal Act on Unfair Competition (UCA) in full is uploaded.

3.5 If the Customer involves a third party (e.g. letter shop, printer), the Customer must transfer any obligations arising from the contract (e.g. GTC, ordering) to them. Furthermore, data supplied by Swiss Post or a third party shall be processed once for the sole purpose of conducting the business concerned and must be permanently deleted afterwards.

3.6 In the event of a breach of the provision stipulating that data be processed only once, three times the invoice amount shall be charged. Payment of the contractual penalty does not exempt the Customer from complying with the contractual obligations or any other obligations. We expressly reserve the right to claim compensation or seek other legal remedies.

3.7 The customer bears sole responsibility for the content and design of advertising materials. They agree to comply with the relevant statutory provisions and industry regulations and bear responsibility for this vis-à-vis Swiss Post. The customer undertakes to hold Swiss Post and governing bodies or employees of Swiss Post fully harmless for all claims for compensation, claims by third parties, and any fines and procedural costs that arise in connection with the commissioned advertising campaign. The same applies for costs, penalties and expenses, including the costs of defending against claims and other costs for legal representation, experts' fees or court costs, including protection of rights in criminal proceedings, that arise as a result of such claims by third parties or procedures of the authorities.

3.8 Other cooperation obligations may be stated in the offer.

### 4. Obligations to provide information

- 4.1 The parties shall inform each other of any circumstances or events that may be significant to the execution of this contract.
- 4.2 The other party shall be notified immediately in the event of any extraordinary events. Each party shall directly report particularly urgent cases to the other party's designated contact/contact persons. Each party is authorized to request the other party to provide written or oral information on questions pertaining to the performance of this contract.

### 5. Prices and payment methods

- 5.1 The prices and any differing payment terms are defined in the offer. Discounts granted as part of a cross-channel campaign have no impact on the price of addressed and unaddressed promotional mailings.
- 5.2 The Customer is responsible for settling the invoice promptly.
- 5.3 Objections to the invoice should be sent to Swiss Post in writing within 30 days of receipt of the invoice.
- 5.4 Invoices are payable within 30 days. 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 to which no reply is received. In justified cases, Swiss Post shall have the right to demand cash payments from the Customer or to shorten the payment term.



- 5.5 Should the Customer be in arrears with payments to Swiss Post for more than 60 days, Swiss Post is entitled to terminate this contract for good cause.
- 5.6 Furthermore, the non-use of contractual services by the Customer shall not exempt it from the obligation to pay ongoing fees.
- 5.7 The Customer is not permitted to offset Swiss Post claims with counterclaims.

## 6. Ownership and intellectual property rights

- 6.1 All property rights (intellectual property rights and ancillary copyrights as well as any contingent rights to such) shall remain with Swiss Post or the third parties it has involved. No property rights (copyright, trademark, design or patent rights) shall be conferred by this contract. The Customer is not entitled to submit or protect any property rights (intellectual property rights and ancillary copyrights as well as any contingent rights to such) or domain names arising from this business relationship alone without prior agreement to the contrary.
- 6.2 All property rights arising in conjunction with the provision of this service (including further or new developments), as well as organizational and program files, are or remain the property of Swiss Post.
- 6.3 For the duration of the respective individual contract, the Customer shall be granted a non-exclusive, non-transferable and non-subliceasable right of use not exclusively limited to the purposes of the individual contract to the services and any data and information made available by Swiss Post and the documents provided. No right to modification or disposal is granted.  
In particular, the Customer is not authorized to copy, reverse engineer or decompile any software provided or decode it in any other way.  
All files made available to the Customer by Swiss Post, including electronic files, may only be used or copied for the purposes of the individual contract.
- 6.4 The Customer declares and expressly guarantees that it possesses all rights to advertising material and images/texts – particularly company rights, copyrights and trademarks, as well as ancillary copyrights and/or personal rights – to the extent required. The Customer acknowledges that images, graphics, data, sound files, programs or parts thereof, etc., may be or could become subject to third-party rights, and shall ensure that the necessary usage rights are acquired in advance.
- 6.5 Swiss Post is not obliged to check whether such third-party rights apply or whether the Customer has obtained the necessary usage rights. In the event of doubt, however, Swiss Post may request evidence of entitlement from the Customer, refuse to accept the documents concerned, request the removal of the illegal components, and, in the event of non-compliance, suspend its services until any infringement of the law is rectified. The Customer shall fully indemnify Swiss Post against any claims that third parties may assert against Swiss Post.
- 6.6 The parties shall inform each other immediately should a third party assert a claim relating to a breach of its property rights relating to the service provided. Failure to disclose this immediately shall result in the party concerned losing its right to indemnity. The parties shall provide each other with reasonable support in the defence of such claims and keep each other regularly informed of the progress of the proceedings without delay.
- 6.7 If claims are asserted by third parties against the Customer, Swiss Post is exclusively obliged to take one of the following actions:
  - exchange the service for an equivalent service that does not infringe any third-party rights; or
  - ensure that the Customer can continue to use the service.
 The assertion of claims for damages against Swiss Post is governed by Point 12.

## 7. Use of trademarks and logos

Trademarks and logos may only be used with the written consent of the party concerned, and for the purpose of the performance of this contract.

## 8. Availability and interruptions

Swiss Post endeavours to ensure maximum and uninterrupted availability of the contracted service. 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, introduce new technologies, etc. and will carry them out during quiet times whenever possible.

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## 9. Support and contacts

Support services and customer-specific points of contact can be defined in the offer.

## 10. Communication

Any external communication regarding the collaboration and the provision of references requires the prior written consent of the other party.

## 11. Confidentiality

- 11.1 “Confidential information” is all information and data disclosed or made available by one party (the “Disclosing Party”) to the other party (the “Receiving Party”) in connection with the business, and in particular the conclusion and content of this contract. Confidential information shall not include information that:
  - is publicly known without a breach of this contract and without a legal infringement by a third party;
  - is already lawfully known to the Receiving Party;
  - has been developed by or for the Receiving Party independently of the business.
 In case of doubt, the information shall be treated as confidential.
- 11.2 The Receiving Party shall use confidential information solely for the purpose agreed.  
Its use by staff and other third parties (“Auxiliaries”) is only permitted if they need access to the information for the business and have the same confidentiality obligations with regard to the Receiving Party.  
Confidential information shall be protected against unauthorized access and disclosure using appropriate technical, organizational and legal measures.  
The Receiving Party shall exercise the same due diligence it would use to protect its own confidential information of a similar type and at least the customary due diligence in the trade. In particular, the use of communication and IT systems (including online storage and cloud services) provided or used for transferring information by the Disclosing Party is permitted.  
Any infringement or threatened infringement of this contract shall be notified to the other party without delay as soon as it becomes apparent.  
The Receiving Party shall provide evidence of compliance with its obligations under this contract on request.

## 12. Liability

- 12.1 As permitted by law, Swiss Post does not accept any liability for damage or loss as the result of incidental or ordinary negligence.
- 12.2 Swiss Post does not accept liability – to the extent permitted by law – for direct, indirect or consequential damage such as loss of profit, loss of data or damage as a result of downloads.
- 12.3 Swiss Post cannot be held responsible for misuse or damage caused by third parties or for the security failings of the telecommunications network or the Internet and is not obliged to assume any further costs (repair or support costs).
- 12.4 Swiss Post does not accept any liability for damage or loss caused by auxiliary personnel and third parties it engages (e.g. subcontractors, suppliers, etc.) which result from incidental or ordinary negligence.
- 12.5 To the extent permitted by law, Swiss Post does not accept liability for damage or loss as a result of improper use of its services (in breach of contract or law).
- 12.6 Claims in respect of product liability and personal injury remain reserved.
- 12.7 To the extent permitted by law, Swiss Post does not accept liability for losses arising from force majeure or disruptions occurring in particular through a 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, nor for loss or damage of data, etc.

## 13. Data protection

- 13.1 The parties undertake to comply with the provisions of applicable data protection law. Personal data may be processed solely for the purpose of, and to the extent required for, the performance and execution of the contract.
- 13.2 The Customer shall ensure that all necessary permissions for data processing are acquired from the data subjects in a legally valid manner and are available.
- 13.3 In particular, appropriate protection shall be ensured through technical and organizational measures.
- 13.4 The Service Provider may also use information and insights from the business, such as transactions in a region, in anonymous form from the order for the further development of the products (modelling, cell formation, selections, etc.).

- 13.5 The privacy policy on the website [www.swisspost.ch/data-privacy-statement](http://www.swisspost.ch/data-privacy-statement) as well as any further applicable GTC or contracts provide further information about data processing when using our website.
- 14. Involvement of third parties**
- 14.1 Swiss Post may involve third parties to render services and supply the necessary data to the third parties involved. Third parties involved in this way are subject to the same obligations as regards guaranteeing data protection as Swiss Post itself and may – subject to differing legal regulations – not process the data for their own purposes and only on behalf and on the instructions of Swiss Post. Swiss Post undertakes to select, instruct and monitor such third parties in a prudent manner.
- 14.2 Swiss Post shall disclose the data to additional third parties only if required to do so by law, or if the Customer instructs Swiss Post to do so. The Customer shall be responsible for ensuring that consent is gained from the data subjects. We reserve the right to transmit data to payment collection service providers, governmental institutions and authorities as well as to private individuals with a right hereto based on authorized interests of Swiss Post (in particular consultancies that are contractually bound to process data appropriately and confidentially), statutory regulations, court orders or regulatory decisions, as well as its transfer to governmental institutions for the purposes of taking legal action or prosecution should our legally protected rights be challenged.
- 14.3 The third parties involved may also be domiciled abroad.
- 14.4 If the Customer involves third parties or instructs Swiss Post to work with a third party, the Customer must transfer the obligations arising from this contract to the third parties concerned.
- 15. Effective date, duration and termination**
- 15.1 This contract shall enter into effect when the offer is signed by the Customer (determined by the date of the final signature) or – in the case of an electronic relationship – with the confirmation of the offer by the Customer via e-mail or signature on the date stated in the offer. The contract shall enter into effect at the point the service is first utilized at the latest. The contract is concluded for an indefinite period; limitations, minimum periods and termination/cancellation methods can be defined in the offer.
- 15.2 Either party is entitled to terminate the contract without notice for good cause at any time after issuing a reminder, in particular in the event of multiple or serious and culpable breaches of contract or if the other party is insolvent. The Customer is considered insolvent in the event that it is issued with a bankruptcy notice or has accumulated excessive debt. Termination without notice is also possible if the management or ownership structure of the counterparty changes such that performance of the contract is no longer guaranteed or the terminating party cannot be expected to continue the contract. Good causes also include force majeure as well as an objection from the Federal Government (our owner) or supervisory authorities, or any other disputes with third parties in connection with the corporate objective in accordance with Art. 3 of the Postal Services Organization Act, which would make the continuation of the contractual relationship unacceptable for Swiss Post.
- 16. Consequences of termination**
- 16.1 All files and other information and data must be destroyed on request of the respective other party. Compliance with the request must be confirmed in writing (or by e-mail). This does not apply to ordinary correspondence, documents and files that are subject to statutory retention periods, or data processed under the Customer's own responsibility as an independent controller. The Customer shall direct queries that are related to the documents and other details and data of third parties involved directly to them, provided these were supplied to the persons involved directly by the Customer.
- 16.2 If Swiss Post has made investments over a minimal period of the contract and the contract is terminated prematurely for reasons attributable to the Customer, the Customer is required to compensate Swiss Post for these investments in accordance with the agreed cancellation regulations.
- 16.3 Any usage rights shall end with the termination of the contract.
- 16.4 The confidentiality and data protection obligations and liability limitations shall continue to apply without restriction after the business has been completed.
- 17. Changes to the GTC or the services offered**
- Swiss Post can amend the GTC in justified cases at any time and can modify or stop the services. Except in the case of urgency, the amendments shall be announced in a suitable manner beforehand. In the absence of written objection within one month of notification, the amendments to the GTC and the services offered shall be deemed to have been approved. In the case of objection, the Customer shall be free to terminate the business relationship with immediate effect.
- 18. Severability clause**
- Should individual provisions of these GTC be invalid, incomplete or unlawful, or should performance be impossible, 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 provision in question with an admissible effective provision which in terms of content comes closest to the original intention, unless this conflicts with consumer protection provisions.
- 19. No legal business relationship**
- In concluding this contract, the parties are not establishing a relationship under company law such as a simple partnership. As such, neither party has the right to represent the other party or conduct legal transactions in the name of the other party.
- 20. Assignment of rights**
- The assignment of the contract or of rights or obligations pertaining to the contract shall require written consent from both parties. Swiss Post may assign the present contract or rights and obligations arising from it to another company without the Customer's consent provided Swiss Post controls the company directly or indirectly. Furthermore, Swiss Post is entitled to transfer or assign contracts or claims arising therefrom to third parties for collection purposes without the Customer's consent.
- 21. Applicable law and place of jurisdiction**
- 21.1 The contract is governed by Swiss law. To the extent permitted by law, the applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG, SR 0.221.211.1) is waived, as are the conflict of law provisions of the Federal Act on International Private Law (IPLA, SR 291).
- 21.2 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). Unless otherwise agreed, Bern shall also be the place of performance and the place of debt collection for Customers who are not resident in Switzerland.
- 22. Legal form of publication**
- The exclusively legally binding GTC which constitute an integral part of the contract are published electronically at [www.swisspost.ch/gtc](http://www.swisspost.ch/gtc). The Customer acknowledges that the GTC is only a copy of the exclusively legally binding GTC applicable at the time and is legally binding only until such time as it is replaced by a new version.

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