

GENERAL TERMS AND CONDITIONS

Flyer Service

1. Scope

These Flyer Service General Terms and Conditions (hereinafter GTC) govern the business relationship between the Customer and Post CH Ltd (Wankdorfallee 4, 3030 Bern, Switzerland; hereinafter Swiss Post) in connection with the use of the online Flyer Service.

The Customer accepts these GTC upon placing an order. Without express written agreement prior to completing the order, conditions which contradict or deviate from these GTC are not recognized and are hereby excluded.

2. Range of services offered

The range of services offered through the Flyer Service encompass the uploading, printing and sending of PromoPost consignments, which are delivered unaddressed to letter boxes and mailboxes at permanently inhabited properties in the selected distribution zone in Switzerland and the Principality of Liechtenstein. The range of services for mailing are described on the Swiss Post website at www.swisspost.ch/promopost. The range of services form an integral part of these GTC.

3. Scope of services

- 3.1 Ordering and the Customer's obligations to cooperate
The Customer is obliged to cooperate promptly in any such way as is necessary for Swiss Post to execute the issued order. This particularly applies to preparing and providing any necessary information and documentation. In doing so, he will observe the various valid format specifications (particularly in terms of the size and format of the consignments), specified on the Flyer Service website <https://flyerservice.swisspost.ch> as well as the grounds for exclusion in accordance with section 4. He is responsible for ensuring the printed matter does not contain any unlawful or immoral content. He must provide truthful details when entering orders. The Customer is liable for damage caused by insufficient cooperation.

The ordered consignments are produced on behalf of the Customer and according to his specifications by a printing company specified by Swiss Post. Should the order be cancelled or interrupted, the Customer shall be liable to Swiss Post for full compensation.

In the event that Swiss Post cannot fulfil the order, it will attempt to inform the Customer either by telephone, e-mail or letter. Swiss Post is not obliged to accept and execute orders which do not meet the contractual requirements, particular those according to section 4 (grounds for exclusion).

Swiss Post will store the transmitted personal data for one year and keep it ready for any new orders. It will then be deleted without further notification to the Customer.

3.2 PromoPost delivery

The consignments are solely delivered to letter boxes and mailboxes without a "Stop – No advertising" sticker or similar markings. Official or other items in the public interest can be delivered to all letter boxes and mailboxes provided the Customer orders distribution as an "official consignment" and fulfils the requirements for this.

Swiss Post will endeavour to send the printed matter within the production and mailing times stated in the order confirmation. However, a binding mailing date cannot be guaranteed, and liability is therefore excluded in this respect.

Consignments are delivered within the respective range of services offered by Swiss Post. This requires punctual placing of the order at <https://flyerservice.swisspost.ch> in accordance with the agreed conditions. However, this excludes instances of exceptional peak loads in postal operations, operational disruptions and the effects of force majeure.

4. Grounds for exclusion

Swiss Post can exclude orders or consignments from processing and delivery that feature pornographic or otherwise offensive content, that are disparaging or defamatory in any other way, are contrary to applicable law or conflict with the interests of Swiss Post.

5. Clarification obligation

Compliance with legal provisions and the requirements of Swiss Post is incumbent upon the Customer. Swiss Post is not obliged to clarify whether the consignments it is provided with violate applicable law or whether they can be delivered to the Principality of Liechtenstein. The Customer is fully liable towards Swiss Post for all damage incurred through the violation of his clarifications obligations. Swiss Post can divulge the sender to third parties.

6. Refusal to accept and the return of PromoPost consignments by the recipient

Rejected consignments must be franked for return shipment. Swiss Post is not obliged to return unfranked PromoPost consignments.

7. Customer obligations

7.1 Payment

The Customer is responsible for paying for the ordered services on time.

7.2 Passwords, etc.

The Customer shall keep passwords, identification codes, login data, etc. safe and shall not make these accessible to third parties.

8. Prices and payment methods

8.1 Prices

The prices published at <https://flyerservice.swisspost.ch>, including the currently applicable Swiss value added tax for printing and domestic shipping, shall apply.

8.2 Invoicing

Unless otherwise expressly agreed in writing, Swiss Post delivers upon payment in advance via the PostFinance Checkout. Any reminders due to outstanding payments, along with further payment collection costs, will 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. Availability and interruptions

Swiss Post endeavours to ensure maximum uninterrupted availability of the 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. Liability

Where permitted by law, liability on the part of Swiss Post for all types of financial loss is excluded. This exclusion of liability also applies with respect to the conduct of auxiliary staff to the greatest extent possible. Financial loss includes but is not limited to lost profit, production losses, non-realized savings, damages from data loss or data damage, expenses incurred in vain by the Customer, third party recourse claims, damage caused by delay and any kind of subsequent damage caused by a defect.

If the service to be provided becomes impossible or is delayed beyond the agreed provision date due to events such as natural hazards, technical obstacles or interruptions in production through no fault of its own, interruption or failure of the communication infrastructure, force majeure, etc., Swiss Post shall not be in default during the period in which it is unable to perform or performance is interrupted, and in particular shall not be liable for any compensation.

The Customer provides his assurance that the data and documentation he provides for fulfilment of the order does not violate any third-party rights (particularly intellectual property rights and personal rights). If Swiss Post is prosecuted before, during or after executing the order due to an alleged legal violation, the Customer shall release and indemnify Swiss Post from such third-party claims upon first request. Swiss Post can determine the type of indemnification (adequate advances and assumption of court costs in court proceedings; taking charge of the process, intervention etc.).

Should the order be cancelled or interrupted, the Customer shall be liable to Swiss Post for full compensation (see section 3.1 above).

The above liability provisions do not apply to liability in accordance with the Federal Law on Product Liability.

11. Data protection

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.

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 so as to ensure a high quality of service.

The Customer shall be responsible for ensuring compliance with all requirements of data protection legislation relating to the personal data of third parties (particularly recipient addresses) provided by the Customer for the provision of the service as contracted, specifically the disclosure of the personal data to third parties.

The data privacy statement on the website www.swisspost.ch/data-privacy-statement provides further information about data processing by Swiss Post.

12. Involvement of third parties

The Customer agrees to Swiss Post involving third parties to render services and supplying the necessary data to the third parties involved. The data processor is 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 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.

13. Amendments to the GTC

Swiss Post reserves the right to amend the GTC and range of services, or to cease services, at any time. The respective new version will be published on the Flyer Service website (<https://flyerservice.post.ch>).

14. 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 clause in question by an admissible effective clause which in terms of content comes closest to the original intention, unless this conflicts with consumer protection provisions.

15. 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 from it to third parties for collection purposes without the Customer's consent.

16. Applicable law and place of jurisdiction

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).

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.

17. Legal form of publication

The legally binding GTC which constitute an integral part of the contract are published electronically and can be viewed at www.swisspost.ch/gtc.

In particular cases, Swiss Post can provide customers with a physical version of the GTC on request. The Customer acknowledges that paper versions are only copies of the current, legally binding GTC published via electronic media and that paper versions of the GTC are legally binding only if they correspond fully to the electronic version.