

General Terms and Conditions

Bulk Mailing Manager

1. Scope

These Bulk Mailing Manager General Terms and Conditions (hereinafter GTC) govern the business relationship between the Customer and Post CH Ltd (Wankdorffallee 4, 3030 Berne, Switzerland; hereinafter Swiss Post) in connection with the use of the Bulk Mailing Manager. The Customer shall be differentiated from the sender, in whose name the bulk mailing is ultimately posted. The Customer and sender may be identical. References to persons apply to both women and men as well as to more than one person.

The "Postal Services for Business Customers" GTC, the "Data-Transfer" GTC and the "Address Maintenance" GTC supplement the Bulk Mailing Manager GTC. In the event of any inconsistencies, the Bulk Mailing Manager GTC take precedence.

2. Service description

Bulk Mailing Manager is a software application that helps the Customer to prepare bulk mailings in compliance with Swiss Post's requirements and in accordance with the rules applicable to the specific product, and to declare the relevant consignments. The Bulk Mailing Manager is software that can be installed by the customer and is provided to the user for independent operation in two alternative variants:

- Client-server solution with manual GUI
- Client-server solution with GUI and an additional API interface

With Bulk Mailing Manager, the Customer can import address files for bulk mailing purposes and to compare and sort them with the Swiss Post street directory with sorting data. To this end, the Customer enters all relevant consignment parameters into the software together with data concerning the sender (invoice recipient) and mailer.

Bulk Mailing Manager creates the documents required for production and mailing purposes, with the exception of any customer clearance documents, sends advance notice by e-mail to the acceptance point(s) depending on the product and transfers statistical data and the necessary information to Swiss Post in encrypted electronic format in order to create the delivery note. The address files are not transferred to Swiss Post.

The full range of functions of the Bulk Mailing Manager is described in the most recent version of the user manual which is available on the Swiss Post website (www.swisspost.ch/bulk-mailing-manager).

In the event of technical difficulties, Swiss Post is not required to provide the Customer with support.

3. Subscriber and usage requirements

3.1 Registration

Use of the Bulk Mailing Manager requires prior customer registration with Swiss Post and a customer number for the Swiss Post address management service (AMP). The sender, whose consignment data will be processed, must also have a billing relationship with Swiss Post.

During the registration process, a Swiss Post DataTransfer account will be created for the Customer.

3.2 Usage

To use Bulk Mailing Manager, the program must be installed in the Customer's infrastructure (local or local network).

The relevant operating systems currently supported and the necessary preconditions are listed in the "Bulk Mailing Manager" factsheet which can be consulted at www.swisspost.ch/bulk-mailing-manager.

4. Payment

Use of Bulk Mailing Manager is free of charge. If the Customer presses the "binding order" button in Bulk Mailing Manager and the consignments are posted accordingly, the determined amount (list price or individually agreed price) is charged to the sender via the monthly invoice from Swiss Post.

5. Customer obligations

5.1 Information

The Customer is obliged to provide accurate information and to keep all information correct and up to date.

The Customer is responsible for the correct input of the order data. Swiss Post is not obliged to check the data provided. In the event that it is determined subsequently that an order contains inadmissible content, Swiss Post can refuse to deliver the printed matter without any liability for damages. In this case, the sender shall compensate Swiss Post for the work already performed and pay compensation for all costs yet to be incurred in this context, which result from the destruction of printed matter that has already been produced. The Customer must transfer this obligation to compensate for loss to the sender.

5.2 Passwords etc.

The Customer must protect passwords, identification codes, login data, etc., and not make these accessible to third parties.

5.3 Delivery notes

The Customer undertakes to print the delivery notes created and provide them on handover (or collection) with the consignments.

5.4 Other obligations

The Customer undertakes to install the Bulk Mailing Manager software updates provided by Swiss Post on a regular and continuous basis.

The Customer may not copy, decompile, or redesign the software, or pass it on to third parties and/or distribute works derived from it or grant sublicences.

Given that Bulk Mailing Manager is installed and used entirely on the user side, the Customer is responsible for ensuring that all security-relevant framework conditions are met, for instance regarding data security, archiving and firewalls.

The Customer is responsible for the use and transfer of the data supplied. It is the Customer's responsibility to restrict access by third parties to this data to ensure that no breach of the conditions of the Bulk Mailing Manager service, postal secrecy and data protection regulations occurs.

The Customer may not operate the software in the US legal area or send data output or messages to or through the US legal area.

6. Blocking access

Swiss Post is entitled to block usage of Bulk Mailing Manager without giving notice and without incurring any costs if the Customer breaches the terms of these GTC, there is a suspicion of misuse or the security of the system is no longer guaranteed.

7. Availability, interruptions and warranty

Swiss Post endeavours to ensure maximum and uninterrupted availability of Bulk Mailing Manager. However, it does not guarantee uninterrupted service, service at a specific time or the completeness, authenticity and integrity of the saved data or data transmitted via its system or the Internet.

Swiss Post will keep short all interruptions necessary to rectify bugs, implement maintenance windows or introduce new technologies, etc. and will carry them out during quiet times whenever possible.

Although the functions of Bulk Mailing Manager are carefully checked, Swiss Post provides no guarantee for the completeness or accuracy of the results or software.

8. Rights to intellectual property / copyrights and usage rights

All copyrights, trademarks or other rights to intellectual property that exist in relation to the software or are used in connection with the latter are and will remain the sole property of Swiss Post. Swiss Post grants the Customer a non-exclusive (simple) usage right to the software it makes accessible.

If Swiss Post uses third party software, the third party retains all rights to it, unless other provisions have been agreed between the third party, Swiss Post, and/or the Customer. The licence provisions of the respective software manufacturer and all additional Swiss Post provisions shall apply.

9. Liability

As permitted by law, Swiss Post does not accept any liability for damage caused as a result of incidental or ordinary negligence.

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.

Swiss Post does not accept liability for damage or loss caused by auxiliary personnel and third parties engaged by it (e.g. sub-contractors, suppliers etc.) as a result of incidental or ordinary negligence. To the extent permitted by the 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). Claims in respect of product liability and personal injury remain reserved.

Swiss Post does not accept liability – to the extent that is permissible by law – for damage arising from force majeure or disruptions occurring particularly due to 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.

10. Data protection

The general data protection provisions of the GTC postal services for business customers apply (www.swisspost.ch/gtc).

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

11. 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 otherwise provided by law – process the data for its own purposes and only on behalf and on instruction of Swiss Post. Swiss Post is obliged to carefully select, instruct and monitor its service providers.

12. Duration and termination

The contract is of indefinite duration. It may be terminated by the Customer with immediate effect by uninstalling the software. Swiss Post may also terminate the contract without stating any reasons and subject to a notice period of three months by means of appropriate communication. 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 other compelling reason.

At the end of the contract, the Customer must immediately, and without being requested to do so, return to Swiss Post all software, documentation and other documents provided to it as part of the contractual relationship, as well as 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 monitor the destruction at any time up to three years after the end of the contract.

13. Changes to the GTC or the service offer

Swiss Post can amend the GTC 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 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.

14. 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 which in terms of content comes closest to the original intention, unless this conflicts with consumer protection provisions.

15. Applicable law and place of jurisdiction

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.

The place of jurisdiction is Berne. 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).

16. 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.

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