

GENERAL TERMS AND CONDITIONS OF USE

POSTCARD CREATOR (APP AND ONLINE SERVICE)

I. PostCard Creator App – Terms and Conditions of Use for Domestic Postcard Mailing Once Per Day

With the PostCard Creator App, a physical postcard can be designed and sent to recipients in Switzerland free of charge every 24 hours. Details of the services offered can be found at www.swisspost.ch/postcardcreator-app. The services offered are an integral part of the contract. The following provisions of section II. 1 and 7–13 concerning the “PostCard Creator” online service also apply to the Post-Card Creator App.

II. PostCard Creator (online service) – General Terms and Conditions for Further Postcard Mailing

1 Area of validity

These General Terms and Conditions, together with the GTC “Login Customer Center”, www.swisspost.ch/gtc (hereinafter collectively “GTC”) govern the relationship between Post CH Ltd (hereinafter referred to as Swiss Post) and its customers (hereinafter referred to as the Customer) for the use of the “PostCard Creator” online service for designing and mailing the Customer’s printed matter. By placing an order, the Customer accepts the GTC. The contract concluded through the acceptance of the order by Swiss Post is based on the electronically registered order data of the Customer, the GTC and the supplemental framework specifications and regulations of Post-Card Creator. Swiss Post shall not assume any obligation to accept orders.

2 Range of services

The range of PostCard Creator services offered is described on our website at www.swisspost.ch/postcardcreator. Swiss Post provides the services in accordance with the provisions agreed under section 1 above. Unless specified otherwise, Swiss Post’s prices shall apply (plus the currently applicable Swiss value added tax for printing and mailing domestically and any applicable customs expenses for international mailing). The range of services applies to Switzerland.

3 Order

The offers and information published in the “PostCard Creator” online service or contained in advertising material are non-binding and do not constitute a contract offer, but merely constitute a request to submit orders. After creating the order, the Customer triggers it with process step 4 “Send”. In doing so, he must provide truthful details. In the case of unclear points, Swiss Post reserves the right to submit a query to the Customer.

The Customer shall provide Swiss Post with the required data on time to process the order. In doing so, he shall observe the individual applicable format specifications (i.e. for size and format of the data), which are regulated on the PostCard Creator website. He is responsible for the printed matter not containing any unlawful or immoral content.

The ordered goods shall be created according to the Customer’s details and specifications. For this reason, the right of cancellation is excluded.

Swiss Post sends an order confirmation by e-mail. The data for the individual orders shall be stored with Swiss Post for one year and kept available for possible new orders and subsequently deleted without any additional notification to the Customer.

In the event that Swiss Post cannot fulfil the order, it will attempt to inform the Customer of this either by telephone, e-mail or letter.

4 Prices

The invoice amount for the respective order is shown in the “PostCard Creator” online service or in the order confirmation. Switzerland: The applicable value added tax will be stated on the order confirmation and must be paid by the Customer. Abroad: The stated complete prices include the statutory value added tax, i.e. with export mailings, the prices are charged without value added tax.

5 Delivery

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.

For mailing, the General Terms and Conditions “Postal Services” apply (available at www.swisspost.ch/gtc).

6 Payment

The services can be paid for by the Customer in the following ways:

- PostFinance (Debit Direct, e-finance or credit card)
- Visa or Mastercard
- Invoice from Swiss Post
- TWINT
- Credit

Swiss Post accepts Visa and MasterCard for settling invoices by credit card. To do so, the name, card number and expiry date must be provided. The exchange rates for foreign currencies are based on the daily rates from PostFinance. The debit takes place immediately. Swiss Post will not begin to perform the services until the Customer’s credit card company has approved the credit card for payment of the ordered services.

Payment by invoice is only possible for authorized customers with an invoice reference number from Swiss Post. Invoices are issued from an order value of CHF 50. 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 will be charged. In the event of non-payment of invoice amounts after receipt of a reminder, Swiss Post reserves the right to hand over the matter to a debt collection company. Furthermore, the payment shall be based on the terms and conditions of the respective provider of the payment method.

7 Liability

Swiss Post and its legal agents shall only be liable for direct damages, which they have caused wilfully or as a result of gross negligence. This specifically excludes any liability for consequential damages and lost profits. If the Customer fails to provide Swiss Post with the required data in good time, he cannot assert a claim due to delayed, incomplete or non-execution of the order.

The Customer’s payment obligation for consignments that have been produced with errors shall continue to exist. Any service defects must be immediately reported to Swiss Post. Swiss Post is authorized to remedy defects by executing the order again. If there are still faults, the Customer can withdraw from the contract or demand compensation for the reduced value. Compensation can only be demanded under the conditions stated above.

8 Legal warranty

The Customer is responsible for providing data in printable quality. The Customer guarantees that he is entitled to all the intellectual property rights to the data provided to Swiss Post or that he holds sufficient licences. He also guarantees that, to the best of his knowledge, the commercial use of the data for the intended purpose neither violates third party rights (including personal rights) nor other regulations in Switzerland or abroad. The Customer additionally guarantees that at the time of concluding the contract, he is not aware of any third party rights which preclude the execution of this contract and, in particular, that no copyrights of photographers or graphic designers are infringed by the execution of the contract.

The Customer undertakes to fully exempt Swiss Post from any relevant claims by third parties (infringement of copyrights, breach of licence agreement provisions) upon first request. The Customer bears exclusive and unlimited responsibility for the content of the consignments that he has ordered. Swiss Post explicitly assumes no legal warranty for templates and recipient addresses that are supplied by the Customer. All of the addresses saved for mailing shall remain with the Customer. Racist, pornographic, violence-glorifying or otherwise unlawful, immoral or offensive data/content is not admissible. Swiss Post reserves the right to delete stored templates and user accounts without consultation. In this case, the selling price shall not be refunded.

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 Customer 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. Any relevant claim by Swiss Post shall be offset from the payment made by the Customer. Any remaining surplus shall be refunded to the Customer.

9 Data protection and security

The general data protection provisions of the GTC postal services for private customers / GTC postal services for business customers / GTC Customer Center Login shall apply.

Swiss Post or third parties commissioned by it process and store only data which is necessary and required for business transactions. Swiss Post observes the provisions of the Postal Services Act and Swiss Data Protection Act when recording and processing personal data. It safeguards its customer data with suitable measures and treats it confidentially.

Swiss Post will use the data collected solely for the purposes of providing its services. Any other use of personal details and the recipient addresses, particularly their sale to third parties, is explicitly excluded.

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.

10 Direct mail advertising

The Customer has the right to expressly object to the processing of his or her data for the purposes of direct mail advertising. Swiss Post guarantees the right to transferability of the data which the Customer has supplied to Swiss Post.

11 Force majeure

In the event that Swiss Post is prevented from fulfilling its obligations under a contract due to force majeure or other circumstances outside of its control, it shall not assume any liability. In the event that a delay occurs in cases of force majeure or other circumstances outside of the control of Swiss Post, Swiss Post shall perform its obligations as soon as is reasonably possible under these circumstances.

12 Involvement of third parties

Swiss Post may engage third parties at any time to provide its services. The head offices of third parties engaged by Swiss Post may be located abroad.

13 Amendments to the General Terms and Conditions

Swiss Post reserves the right to amend the General Terms and Conditions at any time. The respective latest versions shall be duly published on the Swiss Post website (www.swisspost.ch/gtc) before coming into force.

14 Place of jurisdiction

The place of jurisdiction is Berne. For disputes arising from consumer agreements, the court at the place of residence or registered office of one of the parties is responsible for claims brought by the Customer, and the court at the place of residence of the defendant is responsible for claims brought by Swiss Post. Consumer agreements are agreements concerning services to be used by the Customer or his family.

In the case of customers who are resident abroad or whose registered office is abroad, Berne is the place of debt collection and sole place of jurisdiction for all proceedings.

15 Conciliation office

Before bringing a dispute before a competent court, the Customer has the option to access dispute resolution at the PostCom conciliation office. The contact details can be found at www.ombud-postcom.ch.

16 Applicable law

In all other cases, the contractual relationship shall be subject to Swiss law.

17 Legal form of publication

The sole legally binding versions of the GTC ("PostCard Creator") which also form an integral part of the contract are those which are published electronically and made available at www.swisspost.ch/gtc. In particular cases, Swiss Post can provide customers with a physical version of the GTC if requested. The Customer acknowledges that paper versions are only copies of the current and 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.

© Post CH Ltd, June 2018