

Information Technology General Terms and Conditions for Software as a Service (IT GTCs SaaS)

Part A: General provisions

1. Subject matter and scope

- 1.1 These General Terms and Conditions (GTCs) shall govern the conclusion, content and implementation of contracts concerning the use of SaaS solutions.

2. Bid

- 2.1 The bid, including a demonstration, shall be made free of charge unless otherwise stipulated in the invitation to tender.
- 2.2 The bid shall be based on Swiss Post's invitation to tender. The service provider may submit additional alternatives if they offer better value for money, are more environmentally friendly or are otherwise in the interests of Swiss Post. If the bid differs from the invitation to tender, the service provider shall indicate this clearly.
- 2.3 The service provider shall show the value added tax separately in the bid.
- 2.4 The bid shall be binding for the period stated in the invitation to tender. If this is not stated, a period of three months from receipt of the bid shall apply.

3. Definitions

- 3.1 SaaS solution: refers to the Software as a Service solution provided by the service provider (including servicing and maintenance services and support and help desk services). The SaaS solution is a piece of software provided and managed by the service provider via a data network, and which various users can use. The SaaS solution also comprises other software required for use (e.g. apps, clients, interfaces, individual additional developments for Swiss Post), if available, new versions of the software that forms part of the SaaS solution and new releases and patches, etc.
- 3.2 Swiss Post data: regardless of any reference to people, this refers to all content, materials, configurations, information, data, raw and factual data (including sensor, logger, factual, telemetric and diagnostic data, etc.), and other data (including aggregated, anonymized, pseudonymized or analytics data, etc.), that is processed or comes up in the context of the service provision and in particular the use of the SaaS solution.

- 3.3 Releases: further developments of standard and stand-alone software including firmware. New releases feature new functionalities, error corrections and/or improved performance.

4. Scope of services and rights of use

- 4.1 The service provider is authorized to grant use of the SaaS solution pursuant to the contract. It will provide the software and all the basic software required for its operation for use by Swiss Post via a data network, and will also provide all related support services.
- 4.2 Within the agreed scope, the service provider shall provide Swiss Post and its subsidiaries with the SaaS solution, ensuring it complies with specifications concerning data protection and information security (see Part B "Provisions regarding data protection and information security").
- 4.3 The service provider undertakes to provide platform, servicing and maintenance services as well as support and help desk services as agreed. The provisions of the "Service Level Agreement" annex shall apply unless otherwise specified.
- 4.4 Over the duration of the contract, the service provider shall grant Swiss Post and its subsidiaries a simple, geographically unlimited and, unless otherwise specified, non-transferable right of use to the SaaS solution within the agreed scope.
- 4.5 Swiss Post can allow authorized users to make use of the SaaS solution to the extent laid down in the contract.
- 4.6 The standard software may be used as described in Sections¹ 4.1 – 4.4 by Swiss Post companies (direct and indirect equity interests of at least 50 percent).

5. Documentation

- 5.1 The service provider shall provide Swiss Post electronically or in writing with a complete and reproducible set of documentation (installation and user manual) in the agreed languages and in the agreed quantity.
- 5.2 Swiss Post may copy the documentation for use under the terms of the contract.

¹ References refer to the sections of the respective part.

6. Instruction

- 6.1 The service provider shall, at Swiss Post's request, provide a level of instruction to be agreed on the basis of capacity and the number of persons involved.

7. Employees, operational provisions

- 7.1 The service provider shall only deploy carefully selected and well-trained employees who possess the required skills and public-sector authorization (if needed) to provide the services.
- 7.2 When providing services on site, the service provider undertakes to adhere to the operational provisions, the internal regulations and security provisions (in particular with regard to information security and data protection) of Swiss Post.

8. Involvement of third parties

- 8.1 The service provider may not engage third parties to provide its services (e.g. subcontractors, subsuppliers) without the prior written approval of Swiss Post. The service provider shall remain responsible for the contractual performance of the services provided by the engaged third parties.
- 8.2 The service provider will impose on the engaged third parties the obligations set out in this section and, in particular, sections 7 (Employees, operational provisions), 9 (Occupational health and safety, working conditions and the principle of equal pay for men and women), 15 (Confidentiality) and 16 (Data protection, information security and postal and banking secrecy).
- 8.3 These third parties are not entitled to enter into any subcontractual relationships of their own without the prior consent of Swiss Post. The service provider must include provisions to this effect in its agreements with the third parties engaged.

9. Occupational health and safety, working conditions and the principle of equal pay for men and women

- 9.1 If the service provider has its head offices or branch offices in Switzerland, it shall comply with the provisions on health and safety and working conditions that apply in Switzerland as well as with the principle of equal pay for men and women. Working conditions shall be those set forth in the collective and standard employment contracts or, in their absence, the customary working conditions that apply at the location and to the occupation in question. If the service provider has its head office abroad, it shall comply with the applicable provisions at the place where the service is performed.

10. Remuneration and invoicing

- 10.1 The contractually agreed remuneration shall cover all services required to fulfil the contract properly.

- 10.2 More particularly, the remuneration covers the costs of providing the software for use and usage, the granting of those usage rights agreed upon, maintenance, support/help desk services, documentation costs, public expenses (including VAT, unless explicitly regulated otherwise in the price list) and security/compliance (e.g. data security, data protection). All remuneration agreed upon is subject to the currently applicable rate of VAT.

- 10.3 The service provider shall issue invoices in accordance with a payment schedule or after providing the services.

- 10.4 VAT will be indicated separately on the invoice.

- 10.5 The contractually agreed payment conditions and payment periods shall apply.

- 10.6 If advance payments are agreed, Swiss Post may require the service provider to provide surety at its own expense in the form of a first-class bank or insurance guarantee.

- 10.7 Where Swiss Post and/or Swiss Post companies (direct and indirect equity interests of at least 50 percent) use the services of the service provider, the relative fees shall be cumulated for the purposes of calculating discounts.

11. Place of performance

- 11.1 For an SaaS solution, the location of the data center is the place of performance for its operation and the premises of the client are the place of performance for its use.

- 11.2 Additional performance activities shall be carried out on site or via remote access at the service provider's business premises by agreement between the parties.

12. Default

- 12.1 If the service provider fails to comply with firmly agreed deadlines (expiration date transactions), it shall automatically be deemed to be in default, and in other cases after being sent a reminder.

- 12.2 If the service provider enters into default, it will be liable to pay a contractual penalty unless it can prove that it is not at fault. This shall amount to 0.5% per day of delay, but not more than 10% of the total remuneration. It shall also be payable if the services are accepted. Payment of the contractual penalty shall not release the service provider from the requirement to comply with its contractual obligations. The contractual penalty shall be paid in addition to any compensation claims.

- 12.3 No contractual penalties shall be payable if automatic credits (e.g. service credits) for default consequences have been agreed in connection with the SLA service catalogue.

13. Warranty

- 13.1 The service provider shall guarantee the availability of the software supplied for usage with all agreed, warranted features required for usage as agreed for the full term of the contract and that the applicable legal provisions will be met.
- 13.2 The service provider guarantees that it has all rights required to provide its services in accordance with the contract and that it is entitled to grant Swiss Post the usage rights to the software to the contractually agreed extent.
- 13.3 Swiss Post may report defects (e.g. in the SaaS solution) at any time over the course of the contract.
- 13.4 The service provider undertakes to rectify any faults and defects which may have emerged at its own cost. If necessary, it shall provide Swiss Post with a suitable replacement for the software or a workaround solution while any defect is being rectified.
- 13.5 If the service provider fails to rectify faults or defects within a reasonable period of time despite an extension of time in writing, particularly in accordance with the terms agreed in the SLA, and/or fails to provide Swiss Post with a suitable replacement despite the requirement to do so, Swiss Post may choose between the options of a reduction in remuneration reflecting the decrease in value or withdrawal from the contract.
- 13.6 If damage is caused as a result of a defect, the service provider shall also be liable for making amends.

14. Liability

- 14.1 The parties shall be liable for any damages they cause to the other party if they fail to prove that they are not at fault.
- 14.2 Liability for slight negligence may be contractually limited.
- 14.3 Liability for personal injury shall be unlimited.
- 14.4 The parties shall be liable for the conduct of their employees and their auxiliary persons, as well as any third parties engaged (e.g. subcontractors, suppliers and substitutes) in the same manner as for their own.

15. Confidentiality

- 15.1 The parties undertake to treat all facts and information that are neither evident nor publicly accessible as strictly confidential. In case of doubt, the facts and information shall be treated confidentially. The parties undertake to implement all economically reasonable and technically and organizationally feasible measures to ensure that confidential facts and information are effectively protected against unauthorized access and disclosure.
- 15.2 The duty to maintain confidentiality shall also be adhered to prior to concluding the agreement, and will continue to apply after termination of the contractual relationship.

- 15.3 No breach of the duty of confidentiality shall be deemed to have occurred in the event that confidential information has been disclosed by Swiss Post within its own Group or to third parties involved.
- 15.4 This shall apply to the service provider insofar as disclosure is necessary for the performance of the contract or provisions of the contract are disclosed by it within the Group.
- 15.5 The service provider may not publicize the fact that a business relationship exists or has existed with Swiss Post, and shall not cite Swiss Post as a reference without written consent.
- 15.6 The parties shall subject their employees and other auxiliary persons to the obligations arising from this Section 11.
- 15.7 If either party breaches the aforementioned duties of confidentiality, it shall pay a contractual penalty to the other party unless it can be proved that it was not at fault.
- 15.8 This shall amount to 10% of the total remuneration for each violation, but not more than CHF 50,000 per case. Payment of the contractual penalty shall not provide exemption from compliance with the confidentiality obligations.
- 15.9 The contractual penalty shall be paid in addition to any compensation claims.

16. Data protection, information security and postal and banking secrecy

- 16.1 The parties undertake to comply with the provisions of Swiss data protection law and, if applicable, the "Provisions regarding data protection and Information security" laid out in Part B.
- 16.2 The service provider acknowledges that all customer-related data and information of Swiss Post of which it may become aware in connection with this agreement may be subject to postal and/or banking secrecy pursuant to Art. 321ter of the Swiss Criminal Code or Art. 47 of the Banking Act and that its disclosure remains punishable by custodial or financial penalties or fines even after the end of the business relationship.

17. Protective and usage rights

- 17.1 The service provider shall mount a defence against third-party claims arising from infringement of protective rights without delay at its own cost and risk. It shall notify Swiss Post immediately of such claims in writing and shall not object to any intervention by Swiss Post in any legal proceedings.
- 17.2 If the third party makes the claims directly against Swiss Post, the service provider shall, at Swiss Post's first request, participate in the dispute to the extent permitted under the relevant procedural rules.
- 17.3 The service provider undertakes to bear all the costs (including damages payments) incurred by Swiss Post

as a result of court action and/or any out-of-court settlement of the legal dispute.

- 17.4 In the event of an out-of-court settlement, the service provider need only make the agreed payment to the third party provided it has approved the payment beforehand.
- 17.5 If, as a result of claims made in exercise of protective rights, it is impossible for Swiss Post to use the contractually agreed services in full or in part, the service provider may, at its choosing, change its services so as to ensure that they do not infringe third-party rights while still maintaining the scope of services agreed under the contract, or procure a licence from the third party at its own expense.
- 17.6 If the service provider fails to exercise any of these options within a reasonable period, Swiss Post shall be entitled to withdraw from the contract with immediate effect.
- 17.7 In this case, the service provider will completely indemnify Swiss Post regardless of culpability. Any liability restriction agreed as per Section 14.1 shall not apply.

18. Amendments to the contract, discrepancies and partial invalidity

- 18.1 Any amendments and additions to the contract must be made in writing.
- 18.2 In the event of any discrepancies, the terms of the contract shall prevail over the GTCs and the GTCs shall prevail over the bid.
- 18.3 If individual terms of the contract are found to be invalid or unlawful, this shall not affect the validity of the contract. Should this occur, the term in question shall be replaced by a valid term that is commercially equivalent as far as possible.

19. Assignment and pledging

- 19.1 The service provider shall neither assign nor pledge any amounts owed to it by Swiss Post without the written approval of Swiss Post.

20. Applicable law and place of jurisdiction

- 20.1 Swiss law will apply exclusively. The provisions of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (Vienna Convention) shall not apply.
- 20.2 The sole place of jurisdiction is Bern.

Part B: Provisions regarding data protection and information security

I. Data protection

1. General

- 1.1 The service provider undertakes not to process any Swiss Post data abroad or to have it processed by third parties not indicated in this contract, with the exception of the locations set out in the "ISDP specification sheet", and will prevent access to it from abroad. If data is disclosed abroad, the provisions of Section 3 shall also apply.
- 1.2 The service provider may only process Swiss Post data for the purpose and to the extent required for the fulfilment and performance of this contract. Namely, the service provider may not use Swiss Post data for its own purposes or for the purposes of third parties. The service provider will obtain the written consent of Swiss Post beforehand if data has to be transferred to third parties for the purpose of contract fulfilment. Swiss Post is entitled to issue the service provider with instructions on the nature, extent and procedure of data processing.
- 1.3 The service provider may only provide information to third parties, including government authorities in particular, in agreement with Swiss Post. It must obtain the consent of Swiss Post beforehand unless this is excluded by a binding legal provision or legally valid ruling. It will also discuss the pursuit of any means of legal redress with Swiss Post and may not decide to refrain from pursuing such redress. If prior notification and consent of Swiss Post is excluded for binding legal reasons, the service provider will exhaust all means of legal redress available by making the appropriate enquiries, unless it deems this pointless in good faith from the outset. Upon request, the service provider shall provide information on the official requests for information permitted under the applicable legal system, in relation to which prior notifications and approvals of Swiss Post are excluded owing to binding law. The parties shall impose the obligations arising from this section on their employees and any additional auxiliary staff.
- 1.4 The service provider shall protect Swiss Post data against unauthorized processing, loss and misuse using appropriate technical and organizational measures. It is obliged to carry out random checks on the technical and organizational security measures concerning Swiss Post data and data protection controls on any appointed third parties at regular intervals. It shall notify Swiss Post immediately if it detects any violations of the legal provisions, contractual provisions or directives of Swiss Post.
- 1.5 The parties undertake to comply with the provisions of Swiss data protection law and any other data protection provisions applicable.
- 1.6 At Swiss Post's request, personal data shall be processed by the service provider on the basis of an additional data protection agreement.

2. Data ownership

- 2.1 Swiss Post is the sole owner of the Swiss Post data and may request that the service provider hands over specific pieces of data or all data at any time (Section 7)

without the service provider having any right of retention. The service provider irrevocably waives any rights of retention to Swiss Post's data.

3. Data disclosure abroad

- 3.1 If, by way of exception and with the express consent of Swiss Post, data is disclosed in the EU/EEA with an adequate level of data protection (FDPIIC list of countries with an adequate level of protection for natural persons), the personal data shall be processed by the service provider in accordance with Section 1.6 on the basis of an additional data protection agreement.
- 3.2 If, by way of exception and with the express consent of Swiss Post, data is disclosed outside Switzerland and the EU/EEA, the personal data shall be processed by the service provider in accordance with Section 1.6 on the basis of an additional data protection agreement and additional assurances from the service provider in accordance with Swiss Post's requirements.

II. Information security

1. Applicable standards

- 1.1 Information security standards ISO/IEC 27002/27017/27018 and 27701 shall be binding for both the development and the operation of IT applications and systems with which Swiss Post's data is processed as well as for OWASP Top 10 web and non-web applications. The service provider is obliged to adhere to these standards throughout the entire term of the contract. It shall impose this obligation on its staff members and all relevant third parties engaged for the purpose of performing the contractual services.

2. Audit and inspection rights

- 2.1 Swiss Post may examine audit, inspection and safety reports that are available from the service provider and its third parties and relate to the service provision at any time, in order to verify compliance with the contract concerned or the progress made in implementing the service provider's promised technical and organizational measures (hereinafter TOMs).
- 2.2 If the documents examined do not provide an adequate assessment of the implementation of the TOMs, either Swiss Post itself or specialists engaged for this purpose may investigate the extent to which the TOMs are being implemented at the premises of the service provider and its third parties at any time, unimpeded and with the cooperation of the service provider/third party.
- 2.3 The service provider and/or third party shall grant Swiss Post unrestricted information, access and inspection rights. Each party shall bear its own costs.
- 2.4 Any defects identified in the course of an inspection or audit shall be remedied at the service provider's expense based on how serious they are.

3. Involvement of third parties

- 3.1 The subcontractors (third parties) listed in the "ISDP specification sheet" may be engaged for the purpose of fulfilling this contract.

4. Server and backup locations/access points

- 4.1 The service provider's servers and backups are located exclusively in the data centers listed in the "ISDP specification sheet".
- 4.2 The aforementioned server locations shall only be accessed from the access points listed in the "ISDP specification sheet".
- 4.3 Any change to a server or backup location or access point must be reported to Swiss Post at least six months in advance. Swiss Post is free either to agree to the change or to terminate the contract.
- 4.4 Changes to a server or backup location or access point made without Swiss Post's consent may constitute a violation of confidentiality obligations and could be sanctioned in accordance with the provisions on confidentiality.

5. Transfer of data

- 5.1 Swiss Post shall transfer to the service provider the Swiss Post data required in order to provide the service in a suitable jointly agreed format.

6. Data backup

- 6.1 To guarantee the integrity and availability of the data being processed, the service provider shall operate an infrastructure that offers an adequate level of performance. The service provider shall take suitable precautions against data loss, prevent unauthorized access to Swiss Post's data by third parties and monitor both the server platform and the data being processed. Swiss Post's access details stored on the server shall be protected against unauthorized access by means that correspond to the current threat situation.
- 6.2 The service provider shall perform regular backups and restore tests.

7. Return of data

- 7.1 The service provider shall also give Swiss Post read-only access at least to the SaaS solution and to Swiss Post data so it can be exported for a period of 30 days following the termination of the contract, and with no additional remuneration. This access must also be granted for as long as Swiss Post requires if it states that Swiss Post data is either not readable or incomplete, or if the data should not be deleted for other exceptional reasons. The service provider cannot refuse to grant exceptional extended access under these circumstances without good reason.
- 7.2 Furthermore, Swiss Post shall be granted exceptional extended access for between one and three additional months for the purposes of carrying out a migration

provided it notifies the service provider thereof no more than 30 days before the contract comes to an end. The service provider will receive pro rata remuneration (if applicable) based on the terms agreed in the price list for the extension period requested, or, alternatively, reduced compensation that reflects the restricted usage. The service provider cannot refuse to grant extended access under these circumstances without good reason.

- 7.3 The service provider will therefore delete or destroy Swiss Post data it has stored no sooner than 30 days after the contract has come to an end; if Swiss Post is granted exceptional extended access, the data is only deleted/destroyed once the period stipulated by Swiss Post has elapsed. Swiss Post data may only be deleted and destroyed beforehand with the express, verifiable instruction of Swiss Post.
- 7.4 After a confirmed, successful export, Swiss Post's data shall be deleted from the service provider's infrastructure in accordance with Section 8.

8. Deletion/destruction of data

- 8.1 Swiss Post's data shall be deleted or destroyed upon termination of the contractual relationship in accordance with a recognized standard (e.g. NIST 800-88). This shall include both primary and secondary media (backup media).
- 8.2 The service provider shall issue a deletion certificate or other equivalent documentation of the deletion being performed and submit this to Swiss Post immediately after the data has been deleted (sent in encrypted form to infosec@swisspost.ch).
- 8.3 No data may be deleted without the written approval of Swiss Post.

Swiss Post Ltd, January 2022