

General Terms and Conditions
for the comparison of leased/own address databases
with relocation addresses of the Swiss Postal Services
[Schweizerische Post] for permanent labeling

Section 1 Scope

The Conditions of Use of Post Adress shall apply exclusively. Any conditions of the Customer to the contrary shall be invalid. If Post Adress provides services in whole or in part without express contradiction, this shall not constitute recognition of such conditions.

Section 2 Entry into force of the Agreement

The Agreement shall enter into force when written confirmation of the order from the Customer reaches Post Adress.

Section 3 Conditions for the data comparison

The data comparison can only be performed at Post Adress. This assumes that the Customer provides Post Adress offline and/or online with the address data which is to be compared.

Section 4 Rights of use and restrictions of use for the altered addresses

The addresses may only be used for labeling leased or own address databases.

Section 5 Monitoring rights of Post Adress/Contract penalty

1. Post Adress may have compliance with the above restrictions of use monitored through control addresses.
2. In the event of a breach of the above restrictions of use, the Customer undertakes to pay a contractual penalty to Post Adress for every breach, whereby each singular act shall be deemed an individual breach. The contractual penalty shall amount to 10 times the billed amount for the relevant order, and at least EUR 5,000. Post Adress reserves the right to assert further claims for compensation.

Section 6 Warranty

1. Post Adress gives an assurance that the addresses have been recorded with the greatest possible care. However, since recording errors can never be totally excluded, Post Adress shall not guarantee that post can be delivered to an old address. If it is discovered that post can be verifiably delivered to the old address when the Swiss Postal Services have provided a relocation address, Post Adress shall only be liable up to a figure of EUR 0.45, if deliverability is based on a recording error made by Swiss Postal Services.
2. The restriction on liability shall no longer apply if Post Adress has acted with gross negligence or intent or has caused personal injury.
3. Any liability for consequential damage shall be restricted to the losses to be anticipated in a typical case.

Section 7 Commissioned data processing

1. Post Adress shall perform the contractual address comparisons with the Swiss relocation addresses for the Customer as a “commissioned data processor” and shall be strictly bound by the Customer’s instructions in relation to the data processing. Post Adress may only process or use the data within the framework of the Customer’s instructions (pursuant to Section 11 of the German Data Protection Act (Bundesdatenschutzgesetz, BDSG)). To this extent, the Customer shall be responsible to Post Adress for the correct recording and storage of the personal data. It shall release Post Adress from any claims of third parties which arise from processing carried out according to instructions.
2. Post Adress shall be entitled to have the address comparisons carried out by sub-contractors. The agreements to be made with the sub-contractors should be designed so that they correspond to the data protection provisions in these General Terms & Conditions.

Section 8 Delivery

1. After the address comparison has been performed, Post Adress shall return the data to the Customer or to the commissioned data processor that it has named in the order.
2. The delivery date specified in the order is a scheduled date and is dependent on when the Customer’s data reached Post Adress. Usually it refers to the week in which the delivery/service ordered is provided by Post Adress (assuming normal business developments). This in no way constitutes a fixed date in the meaning of the German Commercial Code (Handelsgesetzbuch, HGB)
3. The delivery date specified in the order describes the handover time of the physical objects to the transport company or the beginning of the service or data transfer by Post Adress to the commissioned data processor named in the order.
4. Delays for which the Customer or his vicarious agents are responsible (for change requests, late supply or return of catalogs and/or materials, incorrectly supplied data or data which cannot be processed), shall lead to the delivery or service dates having to be postponed by a corresponding period of time, including an appropriate start-up period. The Customer shall not have any claim to the preferential processing of such orders.
5. Force majeure, labor disputes (strikes, lockouts) and circumstances which are beyond the control of Post Adress or of its vicarious agents/upstream suppliers shall lead to the delivery or service provision dates being extended by at least the duration of the obstruction.
6. If the delay exceeds a period of more than three months, the Customer shall be entitled to withdraw from the Agreement.
7. Possible claims for damages on the part of the Customer due to late delivery or service provision (damage caused by delay) shall, for the period of delay caused by Post Adress, be restricted to 0.5 percent for every complete week, but to a maximum of 5 percent of the net order value affected by the delay. This provision shall cover all claims for damages arising from delays or the Customer losing interest due to the delay. This shall not apply if Post Adress, its representatives or vicarious agents have acted with gross negligence or intent.

Section 9 Liability

1. The Customer is aware that for all participants using the Internet as a transfer route and even the use of SSL encryption does not or cannot constitute complete protection against unauthorized third parties obtaining knowledge of data which is being transferred. The Customer must accept this risk.
2. Post Adress shall be liable for the Customer's data losses if Post Adress or its vicarious agents have caused these data losses through gross negligence or intent and the Customer has ensured by means of his own data back-up before supplying the data that the data can be reconstructed at reasonable cost. If the Customer's data records change, it must also perform a data back-up in relation to the change.
3. In cases of force majeure and unforeseen events, for which Post Adress is not responsible and which require restrictions or the cessation of our business operations, we shall, for the duration of the obstruction and an appropriate start-up period, be freed from the duty of providing the service. A similar status to force majeure is held by fire, strikes, lockouts, the failure of telecommunications systems and other circumstances for which Post Adress is not responsible and which seriously restrict or render impossible the services provided by Post Adress, and this shall apply irrespective of whether the problems have arisen at Post Adress or at one of its vicarious agents.

Section 10 Costs

1. The charges payable to Post Adress shall be due in cash immediately upon receipt of the bill without reduction or discount.
2. If a premature termination of the Agreement is not the responsibility of Post Adress or if the Customer has ordered services and then not required them, Post Adress shall receive 60 percent of the charge agreed for the services which have not yet been performed. Post Adress reserves the right to prove that it had fewer cost savings due to the reduced expense, but the Customer shall have the right to prove that Post Adress did not suffer any damage or that it was saved from greater expense.
3. The Customer shall be obligated to pay interest of 5 percent per annum on the sum payable from the day when it is able to use the service of Post Adress, if and as long as this payment has not been deferred (interest on use).
4. In the event of non-payment when payment is due, the Customer shall be deemed in default if a) the service period was fixed according to the calendar b) Post Adress warns the Customer that payment is due or c) even without a warning, 30 days after payment becomes due and upon receipt of a bill or a similar request for payment from Post Adress. If the Customer's payment is delayed, Post Adress shall be entitled to demand default interest amounting to 5 percent percentage points above the base interest rate. Commercial default interest rates may also be demanded for the same amount.
5. All the claims of Post Adress shall immediately become due for payment if the payment conditions are not complied with or if Post Adress becomes aware of circumstances which could reduce the Customer's creditworthiness. In these cases, Post Adress shall also be entitled to perform outstanding services only against payment in advance or to demand that appropriate security be provided.

6. If charges from Post Adress do not contain information on value-added tax, then the charge stated shall be a net charge to which VAT must be added at the valid statutory rate.

Section 10 Supplementary Agreement terms

The laws of the Federal Republic of Germany shall apply, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. The place of jurisdiction shall be Gütersloh.