

GENERAL TERMS AND CONDITIONS OF BUSINESS

ADDRESS MANAGEMENT

§ 1 Scope of application and validity

1. These General Terms and Conditions of Business (T&Cs) of Deutsche Post Adress GmbH & Co. KG (hereinafter referred to as "Post Adress") shall apply exclusively. Any conflicting terms and conditions of the customer shall not be valid. Should Post Adress provide services, in whole or in part, without them being explicitly opposed, that shall not be deemed acceptance of such terms and conditions.
2. Based on a co-operation agreement with Post CH AG (hereinafter referred to as "Post CH"), Post Adress has a marketing right of its own in the relocated personal addresses of Post CH. The relocated personal addresses of Post CH comprise the latest relocated personal addresses of natural and legal persons in Switzerland and Liechtenstein that have been notified to Post CH and may be used for address updating purposes (corresponding consent by the individuals concerned), official address adaptations and official notifications of death, in so far as the latter can be utilised for updating the addresses.

§ 2 Conclusion of the contract

The contract shall materialise upon the customer's written order being received by Post Adress.

§ 3 Obligations on the part of the customer

1. Subject to any contractual agreement to the contrary, the customer undertakes to only update its master data.
2. The customer is not permitted, without any informal contractual agreement to the contrary, to:
 - a. Update addresses of third parties, in particular supplement its (master) address data by third party addresses in advance;
 - b. make its own (master) address data that has been updated with the updated data of Post CH available to third parties, in whole or in part, or let third parties have such data or use it to update addresses of third parties.
3. In regard to the understanding of paragraph 2 above, any addresses that, until just prior to the updating, did not belong to the customer shall be considered third party addresses, and a third party shall in particular also mean the parent company or any partner companies, subsidiaries or sister companies, as well as, generally, any enterprises affiliated within the group.
4. The use of the updated addresses from its own master address data shall be the customer's responsibility.
5. The customer shall ensure that Post Adress is only provided with the data necessary for fulfilling the order. Post Adress cannot guarantee either the security or availability of any further or different data.
6. The customer understands that the updated addresses include dummy addresses.
7. Should the customer infringe its obligations under this Clause 3, Post Adress shall be entitled to assert a contractual penalty in the amount of € 25,000.00 per infringement. Paying the contractual penalty shall not absolve the customer from complying with the contractual obligations. It is independent of fault, and due over and above any compensation for damage.
8. Post Adress shall be entitled to review compliance with the obligations in accordance with this Clause 3, or have such compliance reviewed by a neutral body of its choice, at any time. Should it emerge from the review that the customer has infringed its obligations, the customer shall bear the costs of the review.
9. Any transmission of data shall be carried out at the customer's risk and on its own account.

§ 4 Rights and scope of use

All rights in the updated information shall remain the property of Post CH. The relocated address data in particular shall remain the property of Post CH. The customer shall only be granted the non-exclusive and non-transferable right to use the updated data during the currency of the agreement in the contractually agreed scope.

§ 5 Prices and methods of payment

1. The prices are laid down in the order/contract. They are quoted exclusive of VAT.
2. The customer may not offset any claims of the Post with any counterclaims.

§ 6 Warranty

1. Post Adress does not have any control over the completeness and quality of the updated data, as the latter is based on voluntary reports by postal customers and any official notifications of death. It therefore excludes any warranty in regard to the completeness, validity and postal correctness of the updated data, thus in particular also in regard to the deliverability of consignments using the updated addresses.
2. Post Adress is to be notified as soon as possible following discovery of any deficient reference data. Post Adress shall replace any deficient data within a reasonable period of time. Any other or further statutory warranty claims, and thus associated claims for compensation for damage, are excluded.

§ 7 Liability

1. Any liability on the part of Post Adress for losses caused by slight or medium negligence is excluded, in so far as statutorily admissible. Post Adress shall – in so far as statutorily admissible – in particular not be liable for any direct, indirect or consequential damage, such as lost profits, loss of data. Post Adress shall not be liable for any losses caused by assistants or vicarious agents drawn upon by it (in particular individuals of Post CH) as a result of slight or ordinary negligence. Post Adress shall – in so far as statutorily admissible – not be liable for any losses resulting from any illegitimate or anti-contractual use of its services. It reserves the right to assert any claims arising from any product liability obligation or injury to persons. Post Adress shall – in so far as statutorily admissible – not be liable for any losses due to Acts of God or interruptions that in particular arise due to the lack of an Internet connection, unlawful intervention in telecommunications equipment and networks, network overload, wilful blockage of the electronic access points by third parties or interruptions.
2. The customer shall be liable vis-à-vis Post Adress for any abuse of the updated data. It shall be required to compensate Post Adress for any damage owing to updates of addresses undertaken by a third party without authorisation that are its fault, in full, in addition to the contractual penalties due.

§ 8 Data privacy and confidentiality

1. The customer is aware that Post Adress or Post CH is obliged, when conducting address research on its behalf, to disclose the identity of the customer and any further details within the context of any proof of interest necessary vis-à-vis information centres.
2. The customer shall observe data privacy law when processing personal data and shall be obliged to provide information exclusively to the persons affected by the data processing while data is being processed by Post Adress. It shall likewise remain the exclusive contact for said persons in regard to any other claims under the respective applicable data privacy law.

§ 9 Duration and termination of the agreement

1. The contractual period and regular period of notice of termination to be given are laid down in the order/contract.
2. The right of termination without notice for a significant reason shall not be affected thereby. Significant reasons shall in particular include the following:
 - a. The occurrence of any events or circumstances that make it not feasible, for the party terminating, to continue the contractual relationship, thus, in particular, the infringement of the obligations explained in Clause 3 by the customer;
 - b. the termination of the co-operation agreement between Post Adress and Post CH in regard to the comparison of data with relocated addresses of Post CH.

§ 10 Amendments and additions

1. Any amendments and additions to this contract shall require to be made in writing.
2. Should any individual provisions of the contract contain a loophole or be legally invalid, or impracticable on legal grounds, the validity of the remaining provisions of the contract shall not be affected thereby. The parties shall, in such a case, come to an agreement which replaces the provision concerned by a valid provision that is economically approximately equivalent.

§ 11 Applicable law and place of jurisdiction

1. German law shall apply. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.
2. The exclusive place of jurisdiction is Gütersloh, Germany.