



General Terms and Conditions governing the Provision of Services

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 provision of services, especially in the fields of consultancy, planning, support and training.

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 supplier 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 supplier shall point this out explicitly.

2.3 The supplier 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 six months from receipt of the bid shall apply.

3. Execution and information

3.1 The service provider undertakes to perform the contract diligently, loyally and competently and warrants that all the services provided will comply with the contractual conditions and specifications, are consistent with the current state of the art and satisfy all legal requirements. Substitution shall be excluded, unless expressly agreed otherwise.

3.2 Swiss Post shall notify the service provider in good time of all specifications required to perform the contract. Any other obligations to cooperate of Swiss Post shall be set out in writing in the contract.

3.3 The service provider shall inform Swiss Post regularly of the progress of the work. In addition, it shall immediately report in writing any circumstances noted by it or apparent to it that could compromise or jeopardize the timely fulfilment of the contract.

3.4 Swiss Post shall be entitled at any time to verify the progress of the performance of the contract and request information in this regard.

3.5 The service provider may not establish obligations for Swiss Post towards third parties.

4. Deployment of employees

4.1 The service provider shall deploy only carefully selected and well-trained employees. It shall replace employees who do not have the necessary specialist knowledge or who otherwise compromise or jeopardize fulfilment of the contract. In particular, it shall take account of Swiss Post's interest in maintaining continuity.

4.2 The service provider shall deploy only employees who have the necessary authorizations to provide the services.

4.3 The service provider shall inform Swiss Post in writing upon request of the names and job titles of the employees deployed to perform the contract.

4.4 The service provider shall only replace the employees deployed who have been designated by the parties as key persons with the written approval of Swiss Post. Swiss Post shall only withhold such approval for good cause.

4.5 The service provider undertakes to comply with Swiss Post's internal regulations, rules of conduct and other regulatory requirements, in particular those relating to the information security, data protection and data security of Swiss Post.

4.6 The provisions of this Article 4 shall also apply to other personnel of the service provider deployed to perform the contract, such as self-employed staff.

5. Involvement of third parties

5.1 The service provider may involve third parties to provide its services (e.g. suppliers, subcontractors) after informing Swiss Post in writing in advance, provided Swiss Post does not object to their involvement. The service provider will remain responsible for the contractual performance of the services provided by the engaged third parties.

5.2 The service provider shall impose on any third parties involved the duties arising from Articles 4 (Deployment of employees), 6 (Social insurance), 7 (Occupational health and safety regulations, working conditions and the principle of equal pay for men and women), 11 (Confidentiality) and 12 (Data protection and postal secrecy).

6. Social insurance

6.1 If the service provider is a legal entity, it will carry out the registration required for itself and its employees with the social insurance providers as an independent company. If the service provider is not a legal entity, the person must provide evidence that he/she is registered with a compensation fund as a self-employed person.



6.2 Swiss Post will not be liable to pay any social security benefits (Old Age and Survivors' Insurance (OASI), disability insurance (DI), unemployment insurance (UI), etc.) or any other compensation payments, in particular in the event of accident, illness, invalidity and death.

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

7.1 If the service provider has its head offices or branch offices in Switzerland, it will 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 will comply with the applicable provisions at the place where the service is performed.

7.2 If the service provider sends employees from abroad to Switzerland to perform the service, the provisions of the Posted Workers Act of 8 October 1999 will be complied with.

8. Place of performance

8.1 Swiss Post shall designate the place of performance. If this has not been determined, the place of supply shall be deemed to be the place of performance.

9. Remuneration and invoicing

- 9.1 The service provider shall provide the services:
- At fixed prices, or
 - On a time and materials basis, subject to an upper limit for remuneration (cost ceiling)
- 9.2 The fee set under contract shall cover all services required for proper contractual performance. In particular, the fee shall cover the assignment of rights, the cost of all documentation and materials, expenses and public charges (e.g. value added tax).
- 9.3 The service provider shall issue invoices in accordance with a payment schedule or after providing the services. Value added tax shall be stated separately on the invoice and may not be charged retrospectively.
- 9.4 The contractually agreed payment conditions and payment deadlines shall apply.
- 9.5 Advance payments may only be made in exceptional circumstances and provided that it has been agreed that the service provider will furnish Swiss Post at its own cost with security in the form of a bank or insurance guarantee from a bank of primary standing.

9.6 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.

10. Protective and usage rights

10.1 All protective rights (intellectual property rights and related rights as well as the prospective entitlement to such rights) pertaining to the results of work done in performance of the contract shall lie in full with Swiss Post. In particular, the service provider shall also assign to Swiss Post all of its moral rights under copyright. Where legal limits have been placed on such assignment, the service provider shall waive its right to exercise its moral rights and warrants that all persons involved in the work shall also waive this right.

10.2 Swiss Post and its companies (cf. Article 9.6) shall have a permanent temporally, geographically and substantively unlimited right to use results comprising the content of the contract that did not arise as a result of performance of the contract (in particular, pre-existing results of work). This shall include all current and possible future forms of usage and the right to sell and process the results.

10.3 The service provider warrants that it and third parties involved by it in relation to the provision of services and the results of the work shall not infringe any protective rights. It warrants the lawful and legally valid assignment of protective rights and the grant of usage rights to Swiss Post as set out in these GTCs and the contract. Insofar as Swiss Post is itself responsible for the infringement of protective rights, no claims may be made against the service provider.

10.4 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. 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. 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. 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.

10.5 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. 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. The service provider must under all circumstances hold Swiss Post harmless in all respects.

- 10.6 All documents made available by Swiss Post to the service provider, including those in electronic form, may only be used and copied for the purpose of providing the service. In this regard, Swiss Post warrants that the use of the documents by the service provider does not infringe the protective rights of third parties.

11. Confidentiality

- 11.1 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.
- 11.2 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.
- 11.3 In the event that Swiss Post discloses confidential information within its own Group or to third parties involved, no breach of the duty of confidentiality shall be deemed to have occurred. 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.
- 11.4 The duty of confidentiality does not apply if an obligation to disclose the confidential information exists due to an enforceable official or judicial order or mandatory law. The other party must be informed beforehand, insofar as this is legally permissible. No prior information is required in the case of announcements by Swiss Post within the scope of public procurement law.
- 11.5 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. The parties shall subject their employees and other auxiliary persons to the obligations arising from this Article 11. 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. 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. The contractual penalty shall be paid in addition to any compensation claims.

12. Data protection and postal secrecy

12.1 General

Data protection and information security precautions are based on the relevant data protection legislation (specifically, the Swiss Federal Act on Data Protection, the Data Protection Ordinance and, where applicable, the GDPR). The parties undertake to comply with the applicable provisions in each case. Personal data may be processed solely for the purpose of, and to the extent required for, the performance and execution of the contract. Data processing must be proportionate, based on good faith and transparent. The service provider shall inform Swiss Post in advance of any disclosure of data.

In the event of any contradictions, any potential DPA shall take precedence over the GTC and the underlying contract, unless the DPA specifies otherwise.

12.2 Technical and organizational measures

Measures must be in place to protect personal data from unauthorized processing, unintentional deletion, loss, destruction, alteration or damage by means of appropriate technical and organizational measures. This includes both technical, i.e. digital, measures, as well as the guarantee that the premises where the data is processed are protected against access by unauthorized parties.

12.3 Rights of data subjects

The service provider undertakes to assist Swiss Post on request and as far as feasible with meeting the entitlements of data subjects under data protection law, in particular in cases of entitlements to disclosure, rectification and deletion of data, and to inform Swiss Post if a data subject contacts the service provider directly regarding data held by Swiss Post.

12.4 Data protection impact assessment

In cases that present high risk to the rights of the data subject, in particular in cases specified as such under the law, the service provider must carry out a data protection impact assessment and notify Swiss Post of the assessment and its results. The service provider shall assist Swiss Post where necessary and feasible for carrying out the assessment, in drawing up a data protection impact assessment for Swiss Post and in the drafting of other relevant documentation.



12.5 Disclosure of data abroad

In the event that data is disclosed in a third country, the service provider must take all necessary measures. In particular, in the case of insecure third countries, the service provider shall conclude all necessary contracts, specifically standard contractual clauses, and present all measures taken if requested to do so by Swiss Post.

12.6 Postal secrecy

If the service provider gains knowledge of matters concerning Swiss Post and the payment transactions of Swiss Post's customers, it undertakes to comply with postal secrecy in accordance with article 321ter of the Swiss Criminal Code.

12.7 Imposition of obligations

The parties shall impose the obligations arising from this Article 12 on their employees and any additional auxiliary staff.

13. Default

13.1 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.

13.2 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.

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. Liability for personal injury is unlimited.

14.2 The parties shall be liable for the conduct of the auxiliary persons and third parties whom they involve (e.g. subcontractors, suppliers) and substitutes in the same manner as for their own.

15. Assignment and pledging

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

16. Amendments to the contract, discrepancies and partial invalidity

16.1 Amendments and additions to the contract must be made in writing.

16.2 In the event of any discrepancies, the terms of the contract shall prevail over the GTCs and the GTCs shall prevail over the bid.

16.3 Should any individual provision of the contract be deemed invalid or unlawful, the validity of the contract itself will not be affected. In such cases, the relevant provision shall be replaced, as far as possible, by a valid provision that is of equal value economically.

17. Applicable law and place of jurisdiction

17.1 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.

17.2 The sole place of jurisdiction is Bern.

B Supplementary terms governing aspects of the service with the status of a contract for work and services

18. Changes to services

18.1 The parties can submit a written request to change services at any time.

18.2 If Swiss Post wishes to make a change, the service provider shall advise in writing within 10 days whether the change is possible and the effects that it will have on the services to be provided and on the fee and any deadlines. It may not withhold consent to a change proposed by Swiss Post if the change is objectively possible and the overall nature of the services to be provided is preserved. Swiss Post shall decide within ten days of receipt of the communication whether the change is to be implemented.

18.3 If the service provider wishes to make a change, Swiss Post shall be entitled to accept or reject such a proposal within ten days of receipt of the communication.

18.4 Changes, especially changes of the scope of the services, the fee and the deadlines, must be set out in an addendum to the contract before work commences.

18.5 The service provider shall continue to work in accordance with the contract while the changes proposed are being considered, unless Swiss Post gives instructions to the contrary.

19. Acceptance

19.1 Acceptance shall be conditional on a test conducted by Swiss Post or, where contractually agreed, jointly by the parties. The service provider shall notify Swiss Post promptly once the agreed services have been completed.



19.2 Swiss Post shall test the services as soon as feasible according to the normal course of business and shall notify the service provider of any defects.

19.3 If a minor defect is found, acceptance shall in any case occur on conclusion of the test. If the defect is significant, Swiss Post may postpone acceptance and require the service provider to rectify the defect immediately.

19.4 Services may not be approved tacitly.

20. Warranty

20.1 The service provider warrants that its services have the agreed and warranted characteristics and such characteristics as Swiss Post is likely to require without a specific agreement. It shall provide a guarantee of one year from acceptance of the fully completed services required under contract. Swiss Post may report deficiencies at any time during the guarantee period. The service provider shall also be required after expiry of the guarantee period to settle any claims arising from the warranty rights below, provided that the deficiencies were reported within the guarantee period.

20.2 If a defect is found, Swiss Post may require that it be repaired or that the fee be reduced. If the defect is significant, Swiss Post shall be entitled to withdraw from the contract where:

- a) The services provided are unusable by Swiss Post
- b) Swiss Post knows from the outset that any attempt to repair the defect will be unsuccessful
- c) Or the acceptance of the services performed is otherwise unfeasible for Swiss Post. In particular, this is also the case if performing a repair would take too long.

20.3 If Swiss Post requires that the defect be repaired, the service provider shall rectify it within the reasonable period set by Swiss Post and shall bear all of the resulting costs. If the defect can only be rectified with a new product, the right to repair shall include the right to a new product.

20.4 If the subsequent test shows that the service provider has failed to complete the required repair, or has not done so successfully, Swiss Post may at its choosing:

- a) Deduct the value of the defect from the fee
- b) Or carry out the necessary measures itself or arrange for this to be done by a third party at the service provider's cost and risk
- c) Withdraw from the contract.

20.5 If loss, damage or injury occurs as the result of a defect, the service provider shall also be liable to pay compensation as described in Article 14.

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