

General Terms and Conditions SwissPostCard (Switzerland)

Issued in September 2009

1. Area of validity

Swiss Post offers the design, print and dispatch of postcards (hereinafter referred to as "services") via its SwissPostCard portal (www.swisspost.ch/swisspostcard).

These General Terms and Conditions (GTC) govern the legal relationship between Swiss Post and its customers (hereinafter referred to as "Customer") for the SwissPostCard Internet service.

The act of accepting an order from the Customer creates a contract between the Customer and Swiss Post which, in addition to any order confirmation and the order data that the Customer enters on the SwissPostCard website, includes the terms and conditions set out below. Any departures from these terms and conditions shall be invalid. Subsidiary agreements or departures from the terms and conditions set out below shall only be valid where this has been expressly agreed in writing.

2. Service offering

Swiss Post offers the services to Swiss customers in its own name and on its own account. The postcards can be sent anywhere in the world.

Swiss Post shall provide the agreed services in accordance with the terms set out below and the Swiss Post General Terms and Conditions for Postal Services. In so doing, it shall apply the standard of care required by law. Swiss Post may engage the services of third parties to perform the services.

Swiss Post shall advertise the services on its website or by other suitable means without this giving rise to any claim to complete agreement as regards the product line and the conditions of sale of the individual offerings.

Unless otherwise specified, Swiss Post's prices (plus VAT at the rate currently applicable in Switzerland of 7.6% for the printing and dispatch of the cards) shall apply.

3. Ordering

The offerings advertised on the SwissPostCard website shall not constitute a contract offer. Furthermore, the information contained on the SwissPostCard website or in brochures or advertising materials or advised by agents or employees of Swiss Post shall constitute no more than an invitation to send in orders. This information shall not constitute an offer to conclude a contract.

Customers can submit their orders by completing the online form, i.e. by designing the postcard(s) on the SwissPostCard website and then clicking the "Send postcard" button. In so doing, they commit themselves to making truthful statements.

If the information and names given are unclear, the Customer may be contacted for clarification purposes.

The Customer shall make the information necessary to process the order available to Swiss Post promptly. In so doing, the Customer shall observe the various format requirements (i.e. as regards size and format of the data) as set out on the SwissPostCard website. The Customer shall also be responsible for ensuring that the postcard content is not unlawful or immoral.

The Customer's order shall constitute an offer to Swiss Post to conclude a contract subject to these terms and conditions. Swiss Post does not accept any obligation to accept orders.

A contract comes into being following the explicit acceptance of the order. If the Customer has entered an e-mail address on the confirmation form, Swiss Post will send the Customer an order confirmation by e-mail. The Customer may also download an order confirmation (PDF file) from the website.

In the event that Swiss Post is unable to proceed with the order, it will try to notify the Customer by phone, e-mail or post.

4. Prices

The invoice amount of the relevant order shall be as indicated on the SwissPostCard website and the order confirmation.

The value added tax due shall be indicated on the order confirmation and shall be paid by the Customer.

5. Delivery

The following production and dispatch times apply for SwissPostCard:

- Monday to Friday: 9 a.m. to 5 p.m.
- Sunday: 9 a.m. to 2 p.m.
- No cards can be printed or sent on Saturdays or federal, cantonal and regional public holidays.

Within the framework of the aforementioned production and delivery times, Swiss Post will make every effort to send the postcards on the dispatch date chosen by the Customer. However, a binding dispatch date cannot be guaranteed and hence no liability can be accepted in this respect.

Where the postcards are to be dispatched by A Mail or B Mail, the Swiss Post General Terms and Conditions Postal Services shall apply (these can be downloaded from www.post.ch).

6. Payment

Customers can pay for the services by the following means:

- Voucher code
- PayPal (PayPal account or credit card via PayPal)
- yellowpay from PostFinance (Debit Direct, e-finance or credit card via yellowpay)
- Swiss Post invoice

Vouchers can be redeemed on the terms and conditions specified on the voucher.

Where invoices are to be settled using credit card via PayPal, Swiss Post accepts VISA, MasterCard, American Express and Discover. Where invoices are to be settled using credit card via yellowpay, Swiss Post accepts VISA and MasterCard. In either case the cardholder's name, card number and expiry date must be entered. The conversion rates for foreign currencies are based on PostFinance's or PayPal's daily rates. Cards will be debited immediately. Swiss Post shall not begin providing the services until the Customer's credit card company has approved use of the credit card to pay for the services ordered.

Payment by invoice shall only be available to authorized customers with a Swiss Post invoice reference number and for orders totalling CHF 50 or more.

Payment shall also comply with the terms and conditions of the payment method service provider in question.

7. Liability

Swiss Post and its authorized agents shall be responsible only for direct loss or damage which they have caused intentionally or through their own gross negligence. In particular, any liability for consequential damages or lost profits is expressly ruled out.

If the Customer has not provided the information needed to Swiss Post promptly, the Customer shall not be able to submit any claim on the basis of failure to execute the order or delayed or partial execution. The Customer shall continue to be liable to pay for defectively produced shipments.

Any shortcomings in the services provided shall be reported to Swiss Post immediately. Where the provision of services has been defective, Swiss Post shall be entitled to rectify the situation by re-executing the order. If this second attempt is also defective, the Customer shall be able to withdraw from the contract or to demand compensation equivalent to the value of the defect. Compensation can only be claimed under the circumstances set out above.

8. Warranty of title

The Customer is responsible for providing data of printable quality. The Customer guarantees that he/she possesses all the intellectual property rights to the data provided to Swiss Post or that he/she has the necessary licence cover. He/she further warrants that to the best of his/her knowledge commercial use of the data for the intended purpose does not infringe the rights of any third parties or contravene any other legal provisions either in Switzerland or abroad.

The Customer further affirms that at the time of concluding the contract he/she is not aware of any third-party rights which conflict with execution of the present contract and, in particular, that no copyrights of photographs will be infringed as a result of performance of the contract.

The Customer undertakes to fully indemnify Swiss Post of any claims by third parties relating thereto (infringement of copyrights, infringement of licence agreement terms) at the first request. The Customer bears the sole and unrestricted responsibility for the content of the mail items which are the subject of the contract. Swiss Post expressly assumes no warranty of title for templates and recipient addresses supplied by the Customer. Data or content that are racist, pornographic, glorify violence, are illegal, immoral or offensive are not permitted. Swiss Post reserves the right to delete saved templates and user accounts without consultation.

The Customer shall be responsible for correctly entering the order data himself/herself. Swiss Post on the other hand shall not be bound to check the data provided. If nevertheless it should subsequently come to light that an order contains inadmissible content, Swiss Post can refuse to deliver the postcards without any obligation to provide compensation. In this case the Customer shall compensate Swiss Post for work already performed and all costs still to be incurred in this connection and especially for any costs occasioned by the destruction of postcards already created. A claim to this effect on the part of Swiss Post will be offset against the fee paid by the Customer. Any remaining excess shall be refunded to the Customer.

9. Contact

You can contact us as follows:

Swiss Post
Swiss Post International
SwissPostCard
Viktoriastrasse 21
3030 Berne
Switzerland
E-mail: supportspi@swisspost.com

10. Data protection and security

The data required for business operations will be stored by Swiss Post, but will be treated as confidential.

Swiss Post complies with the provisions of the national data protection legislation as regards the entry and processing of personal data in connection with use of the SwissPostCard website.

All personal data supplied by the Customer will be deleted 6 months after completion of the order. Enquiries may still be made regarding SwissPostCard 6 months after completion of the order.

Swiss Post shall use the data collected solely for the purposes of providing its own services. Any other use of personal information, especially its sale to third parties, is expressly ruled out.

The latest security technology shall be employed to protect data against unauthorized processing or unauthorized access. No liability can be accepted for the security of data transmitted via the Internet.

In the event that Swiss Post engages third-party services to provide the services, it shall be authorized to make the data necessary for this purpose available to the third parties thus engaged. The Customer undertakes to keep his/her personal customer account password and any voucher codes safe. Swiss Post accepts no liability whatsoever for the improper use, misuse or loss of the password or a voucher code.

The Customer shall be responsible for ensuring compliance with all data protection legal requirements relating to the personal data of third parties (notably recipient addresses) provided by the Customer for the provision of the service as contracted.

11. Force majeure

Swiss Post accepts no liability where it is prevented from performing its obligations under a contract due to force majeure or other circumstances beyond the control of Swiss Post. If, in cases of force majeure or other circumstances beyond the control of Swiss Post, a delay should occur, Swiss Post shall meet its obligations as soon as can reasonably be expected under these circumstances.

12. Applicable law and place of jurisdiction

These terms and conditions and all contracts concluded in accordance with these terms and conditions shall be subject to Swiss law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG, "Vienna Sales Convention").

Swiss Post shall make every effort to resolve any disputes that may occur quickly and unbureaucratically. The sole place of jurisdiction for any disputes arising from or in connection with these terms and conditions and the individual contracts shall be Berne.

13. Supplementary provisions

In addition, the Swiss Post General Terms and Conditions for Postal Services and the legal disclaimer regarding use of the website shall also apply (both of these can be downloaded from www.post.ch).

In the event that any provision of these terms and conditions or of a contract should be or become invalid or unenforceable, the remaining provisions shall remain unaffected thereby. In this case, both parties undertake to agree on a substitute provision whose financial consequences are as close as possible to those of the invalid provision. The same shall apply in the case of a gap in the provisions of the agreement.

14. Authoritative version

The General Terms and Conditions are issued in German, French, Italian and English. In the event of contradictions or lack of clarity, the German version shall be authoritative.

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