

GENERAL TERMS AND CONDITIONS

KMUPLUS

1. Scope

These General Terms and Conditions (hereinafter referred to as „GTC“) govern the business relationship between the customer or sender customer and Post CH Ltd (Wankdorfallee 4, 3030 Berne, Switzerland, hereinafter referred to as „Swiss Post“) in connection with the use of the KMUPlus platform and the services based on it (hereinafter referred to as „KMUPlus“).

References to persons apply to both women and men as well as to more than one person.

The GTC complement the „Customer Center“ GTC and the „Customer Center Login“ GTC. In the event of any inconsistencies, the GTC take precedence. The GTC are supplemented by the provisions of the terms and conditions sheet and the user manual. The delivery of physical letters is governed by the „Postal Services“ GTC for business and private customers. These GTC are available at www.swisspost.ch/gtc.

2. Subscriber and usage requirements

2.1 General

Registration for and use of “KMUPlus” requires the sender customer to have a valid postal address in Switzerland, an email address and Internet access with an Internet browser commonly available on the market. „KMUPlus“ is designed for medium print volumes.

2.2 Registration

To be able to use “KMUPlus”, the sender customer must be registered as a business customer for the services of the “Customer Center Login” and must also register to use “E-Post Business”.

Once the sender customer has successfully registered and signed the terms and conditions sheet, they shall be activated by Swiss Post and can connect to the service.

Swiss Post may reject registration applications without stating the reasons.

3. Service description

3.1 „KMUPlus“

„KMUPlus“ is one of several options for delivering consignments electronically and is suitable for medium daily volumes and bulk mailing. The minimum requirement is set at 50,000 consignments a year.

3.2 Sender customer

A sender customer refers to any natural person or legal entity which sends messages to a third party via “KMUPlus” (hereinafter referred to as “consignments”).

3.3 Recipient customer and recipient

The customer group which has registered with “E-Post Office” via “Customer Center Login” is deemed the recipient customer. Recipient customers can choose through which of the following delivery channels they want to receive consignments sent via “KMUPlus”:

Physically as a “letter”

Electronically via the “E-Post-Office portal” (“portal delivery”, “electronically”)

People who are not registered with “E-Post Office” are deemed to be recipients.

More information concerning “E-Post Office” is available at www.swisspost.ch/epostoffice.

3.4 Preparation of the consignment and licensing

The electronic transfer of consignments to Swiss Post is carried out via one of the options set out in the user manual.

Swiss Post shall grant the sender customer non-exclusive and non-transferable access to the interface for the purpose of data transfer.

If technical changes are made which change the type of data transfer necessary or require other content with regard to processing control features, this shall be communicated to the sender customer at an early stage.

3.5 Production of physical consignments

Consignments that are not transferred „electronically“ (cf. Section 3.3) shall be produced and delivered by Swiss Post.

3.5.1 Production and delivery by Swiss Post

The costs for physical production are set out in a terms and conditions sheet. The costs for franking are governed by the terms and conditions valid for the sender customer. Priority consignments (A Mail, A Mail+, R), that are to be delivered by 2 p.m., are produced and posted on the same day. In exceptional circumstances, it cannot be guaranteed that the consignments will be produced and posted on time. For all other consignments, or consignments that were delivered after 2 p.m., Swiss Post reserves the right to produce orders the following day, provided the capacity utilization requires so.

3.6 Digital signature

On behalf of the sender customer, consignments for which the recipient customer has indicated an “electronic” delivery channel (cf. Section 3.3) can be digitally signed with a Swiss Post certificate once they have been received by Swiss Post. The sole purpose of this digital signature is to make it possible to see if the file has been changed after the signature has been added.

3.7 Warranty

- 3.7.1 In principle, the “KMUPlus” system operates 24 hours a day, seven days a week for delivery of the order data. During maintenance times, as stipulated in the following paragraph, deliveries are precluded.
- 3.7.2 The sender customer shall be notified in advance by e-mail of maintenance and service times.
- 3.7.3 Swiss Post does not guarantee uninterrupted availability of the system or ensure its availability in a given scope or at a given point in time.
- 3.7.4 Swiss Post accepts no liability for the successful connection or operation of the data transfer to Swiss Post on the sender customer’s systems.
- 3.7.5 If it is not possible to send an electronic consignment for technical reasons or due to errors caused by the recipient customer, the consignment will be sent physically as an e-reprint. E-reprints are produced by Swiss Post. The production and postage costs for these consignments are charged to Swiss Post.

3.8 Support

The contact details and support times can be found at: <https://developer.post.ch/en/kmu-plus>

3.9 Further information

Further information about „KMUPlus“ can be accessed via the website <https://developer.post.ch/en>.

4. Services of the sender customer

4.1 General

When using “KMUPlus”, the sender customer is required not to breach any contractual or legal obligations and shall in particular comply with the duties indicated in the “Customer Center Login” GTC and the Customer Centre GTC.

4.2 Document specifications

The sender customer also undertakes to deliver their data in accordance with Swiss Post instructions. The specifications can be found on the website <https://developer.post.ch/en>.

4.3 Payment

The customer is responsible for paying for the ordered services on time.

5. Prices and payment methods

5.1 Remuneration

Sending consignments via KMUPlus is subject to a fee to be paid by the sender customer. The offer and optional value-added services and the associated fees are set out in the terms and conditions sheet. The prices calculated are based on the quantities specified by the sender customer. If these quantities are fallen short of, Swiss Post reserves the right to increase prices the following month with immediate right of termination for the sender customer.

5.2 Payment methods

Services subject to a charge will be invoiced to the sender customer as part of the monthly invoicing for business customers. Invoices are payable within 30 days. Any reminders relating to outstanding payments, along with further payment collection costs, shall be charged to the customer at CHF 20 per reminder. If the customer is in arrears with the payment, default interest of 5% per annum shall be charged. Swiss Post reserves the right to assign unpaid invoice amounts to a debt collection company after sending a reminder without reply.

6. Blocking access

Swiss Post is entitled to terminate the sender customer’s access to „KMUPlus“ without giving notice and without incurring any costs on a temporary or permanent basis if the sender customer breaches the terms of these GTC or the GTC specified in Section 1, if there is a suspicion of misuse, if the security of the system is no longer guaranteed or if the sender customer is in arrears in relation to the payment of invoices. Swiss Post can take additional measures to prevent misuse. These include the temporary blocking of the customer login and access to online services and apps without giving notice. The sender customer will be informed of the block and any lifting of the block by e-mail.

7. Term, termination

The contract for the „KMUPlus“ service is concluded for an indefinite period of time. It may be terminated by the sender customer at any time with immediate effect. Swiss Post may also terminate the contract without stating any reasons and subject to a notice period of 30 days.

Termination of the “KMUPlus” service does not automatically lead to the termination of the login (“Customer Center Login” GTC and Customer Centre GTC).

8. Legal effect of „KMUPlus“

The legal effects of the consignments transferred via “KMUPlus” are determined by the legislation and the legal practices of the courts. Use of “KMUPlus”, in particular for the purpose of adhering to deadlines, is therefore at the sole risk and for the exclusive benefit of the sender customer.

With regard to adhering to deadlines, it should be noted that delays may occur during electronic transfer. In the event of long delays or an inability to deliver, an e-reprint will be triggered in accordance with Section 3.7.5.

The sender customer notes that certain declarations (of intent) must by law be respected due to procedural requirements, such as the simple written form (handwritten signature). Non-compliance with the written form may result in the legal ineffectiveness of the declaration of intent concerned.

9. Data protection, postal and telecommunication confidentiality

9.1 General

When collecting and processing personal data, Swiss Post complies with the current legislation, especially data protection law, the Postal Services Act and Swiss postal and telecommunication confidentiality. It safeguards customer data with suitable technical and organizational measures and treats it confidentially.

Personal data may be processed solely for the purpose of and to the extent required for the performance and execution of the contract.

The parties are obliged to report any data protection violations to the other party without delay insofar as these will affect the other party.

The parties will impose the obligations arising from this section on their employees and any additional auxiliary staff.

The parties undertake to support each other in order to be able to guarantee the rights of people affected without delay.

Swiss Post operates the „KMUPlus“ service exclusively from data centers located in Switzerland.

Log and protocol data is stored for 400 days for auditing reasons.

9.2 Responsibility of the customer

If the customer processes third-party data when using „KMUPlus“, he or she shall remain exclusively responsible in respect of the persons affected.

9.3 Additional data privacy statement

The data privacy statement on the website www.swiss-post.ch/data-privacy-statement provides further information about data processing by Swiss Post.

9.4 Involvement of third parties (processors)

The customer agrees to Swiss Post involving third parties to render services and supplying the necessary data to the third parties involved. The data processor is subject to the same obligations as regards guaranteeing data protection as Swiss Post itself and may – subject to differing legal regulations – not process the data for its own purposes and only on behalf and on the instructions of Swiss Post. Swiss Post undertakes to select, instruct and monitor such service providers in a prudent manner.

10. Liability

As permitted by law, Swiss Post does not accept any liability for damage or loss as the result of incidental or ordinary negligence.

To the extent permitted by law, Swiss Post does not accept liability for direct, indirect or consequential damage such as loss of profit, loss of data or damage as a result of downloads.

Swiss Post does not accept any liability for damage or loss caused by auxiliary staff and third parties it engages (e.g. sub-contractors, suppliers, etc.) which result from incidental or ordinary negligence.

To the extent permitted by law, Swiss Post does not accept liability for damage or loss as a result of improper use of its services (in breach of contract or law).

Claims in respect of product liability and personal injury remain reserved.

To the extent permitted by law, Swiss Post does not accept liability for losses arising from force majeure or disruptions occurring particularly due to lack of Internet connectivity, unlawful interventions in telecommunication devices and networks, overloading of the network, wilful blockage of electronic channels by third parties or interruptions.

11. Changes to the GTC

Swiss Post can amend the „KMUPlus“ GTC at any time and can change or discontinue the service. Except in the case of urgency, the amendments shall be announced in a suitable manner beforehand. In the absence of written objection within one month of notification, the amendments shall be deemed to have been approved. In the case of objection the Customer shall be free to terminate the business relationship with immediate effect.

12. Severability clause

Should individual provisions of these GTC be invalid, incomplete or unlawful, or should performance be impossible, this shall not adversely affect the effectiveness of the other parts of the contract. In this case, the parties shall undertake to immediately replace the clause in question by an admissible effective clause whose content comes as close as possible to the original intention, unless this conflicts with consumer protection provisions.

13. Applicable law and place of jurisdiction

The contract is governed by Swiss law. The UN Convention on Contracts for the International Sale of Goods (CISG, SR 0.221.211.1) shall not apply.

The place of jurisdiction is Berne. This is subject to the proviso of a partially or fully mandatory place of jurisdiction (cf. in particular Articles 32 and 35 of the Swiss Civil Procedure Code for consumers).

14. Form of publication

The legally binding GTC which constitute an integral part of the contract are published electronically and can be viewed at www.swisspost.ch/gtc.

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