

# **EURO.POST**

## **GENERAL STANDARD TERMS AND CONDITIONS**

Valid from 1 December 2014

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**1 General remarks**

**1.1 Area of application**

1.1.1 These general standard terms and conditions (hereafter abbreviated as GSTC) apply to the contractual relationships entered into by Österreichische Post AG (hereafter referred to as Post) and its customers (hereafter: customers), and involving the rendering of Euro.Post transport services, and, if applicable, the acceptance of lettershop services. This service does not fall under the universal service as defined in the Postal Market Act, in the current version (PMG).

1.1.2 The customer's general standard terms and conditions are expressly refuted, as are its conditions of supplying. Any divergences from Post's GSTC require the prior conclusion of express written agreements.

1.1.3 The services listed in Point 1.1.1 are provided by Post only for entrepreneurs. This provision is in accordance with the the latest and thus valid version of Austria's act governing special purpose civil law regulations applying to entrepreneurs (as detailed in the Austrian Commercial Code (UGB)).

**1.2 Contractual relationship**

The customer addresses a query to Post on the delivery of shipments in the country of destination. Post uses this query that details number and grammage of items to be consigned, as the basis for the formulation of an offer. It lays down the specifications and other conditions of shipment imposed by the country of destination and to be met by the customer. The offer also establishes the postage to be paid. The customer has four weeks (or a shorter period of time, should such be part of the offer) in which to affix its corporate seal and signature to the offer and to return it. Failure to do such renders the offer null and void. The receipt by Post of the signed offer causes the contract between Post and the customer to take effect. In accordance to these GSTC, this contractual relationship is contingent upon the shipments being consigned to one of Post's distribution centers within the term established for such in the offer.

**1.3 Definition**

1.3.1 Euro.Post-shipments (hereafter: shipments) are with the exception of a continuous number having all the same contents, are all unaddressed, consigned at one time and comprised of at least 10,000 items (or the minimum number established by the foreign postal operator for shipments of unaddressed Direct Mail with identical formats and according to the same class of weight). The items will be handed over

to the foreign postal operator, the customer has to adhere to the specifications of shipment established by the regulations in force.

1.3.2 Should the commissioning of Post's services be contingent upon the utilization of forms, these are to be the latest and thus valid versions of such. Forms not procured from Post have to accord to the forms, dimensions and printed matters of those issued by Post. Whether or not the former forms conform to those used in Post's operations, as defined by these GSTC, is to be determined by Post.

**1.4 Shipments excluded from transport**

1.4.1 The customer is obliged to adhere to the regulations on shipments which are excluded from transport of the according foreign postal operator.

1.4.2 Excluded in any case from transport are:

- shipments, which contents or external makeup make them unsuitable for processing by Post's operation system;
- shipments, which contents or external layouts could result in injuries to persons, their health or property;
- shipments, which contents or external layouts or transport infringe upon Austrian law, and which infringements are to be pursued ex officio (e.g. Narcotics Act, Prohibition Act 1947), and/or infringe national laws of the country of the foreign postal operator;
- shipments, which contain items with a greater value than that of the payment for transport or those in which the customer's interest in its being transported has a value which is greater than the payment of transport.

**1.5 Scope of service**

1.5.1 Transport

1.5.1.1 The Post hands over the shipments, delivered by the customer or its agents to one of Post's distribution centers, to the foreign postal operator, within 5 working days (excluding Saturday) starting the working day after the day of delivery. This term is to be doubled in cases in which the delay is to to substantial increase in postal traffic (as is the case in the pre-Christmas period). The deadline shall be suspended for delays for which the Post is not responsible.

1.5.1.2 Should Post or the foreign postal operator establish that the shipments do not accord to the specifications and/or preconditions of shipment and/or that

the grammage and/or that the number of items do not correspond to the offer, the shipments will only be consigned to the foreign postal operator for delivery upon the customer's having been informed as to the amount of payment actually to be rendered. The failure of the sender to render its consent in writing to the transfer of shipments for delivery gives it the options of either collecting its shipments, having them returned on a per-payment basis, or having them destroyed.

**1.5.2 Lettershop services**

1.5.2.1 The customer can commission Post with the rendering (by an agent with which Post has a working relationship – hereafter referred to as lettershop) of lettershop services (printing, addressing, putting into envelopes, sorting, preparing the shipments for posting) according to its requirements, in cases in which these shipments are capable of being transported by Post as Euro.Post.

1.5.2.2 The customer addresses a request to Post comprised of the lettershop services desired. The detailed design of the service and the fee to be paid are to be found in the respective offer.

**1.6 Duties of the customer**

1.6.1 The customer is required to adhere to the specifications and other conditions of shipment established by the foreign postal operator and related by Post in its offer. This also applies to grammage and number of items being shipped.

1.6.2 The supplying of lettershop services by Post is contingent upon the customer's delivering to lettershop, after having arranged a time for doing such on a prior basis, the materials (for shipping, for add-ons, and involving addresses). Another option is to bring these materials to Post, which delivers them to the lettershop. The costs of this are borne by the sender.

**1.7 Postage paid indicator**

Each shipment has to bear, in a clearly visible way, on its exterior or envelope the postage paid indicator listed below. In cases in which the use of it is not possible, the shipment has to be affixed with the postage paid indicator of the foreign postal operator:

„Zugestellt durch Österreichische Post“

**1.8 Determination and payment of recompense**

1.8.1 The customer is obliged to recompense Post for all services commissioned by it. The payment is to be made according to the laid down offer.

**1.8.2 Recompense for shipment**

1.8.2.1 The recompense stipulated in the offer applies only in those cases in which the customer adheres to the number of items and grammage established for the shipments in the offer, and to the specifications and other preconditions of and for shipment in force at the foreign postal operator, as detailed in Point 1.2. Cases in which these declarations, specifications and preconditions for shipment are not rendered or adhered to, and in which the shipments, after consultations with the customer and in accordance with Point 1.5.1, are transported and delivered, the fee that has been announced to the customer will be charged.

1.8.2.2 Cases in which these declarations, specifications and/or preconditions for shipments are not rendered or adhered to, and in which the shipments – after consultation with the customer and in accordance with point 1.5.1 – are not transported, but rather collected up by the customer, or returned to the customer, or as requested by the customer, destroyed, are invoiced for 50% of the agreed upon recompense.

1.8.2.3 The Post reserves the right to check the number of items and grammage handed over, and should such be requisite, to correct these items, and to charge – also on an ex post facto basis – the customer for the difference between the recompense paid and owing.

1.8.2.4 The Post explicitly states that – if the handing over of a shipment and/or the acceptance of the offer lie outside the specified validity period – changes in fees of foreign postal operators can lead to price increases. In this case the Post is entitled to accept the shipments for transport and charge the corresponding higher charges. The Post, however – if possible – informs the customer beforehand of any price increases.

1.8.3 All of the payments are reported at net and thus do not include such legally required charges as turnover tax. If services are provided to entrepreneurs registered outside of Austria, the service is not taxable in Austria. It comes to the transfer of tax liability to the recipient of the service.

1.8.4 All applicable taxes, fees and charges due to dispatches of the Euro.Post product to a recipient outside of the customs territory of the EU have to be paid by the customer. If they are not be paid by the customer and are claimed to Österreichische Post AG, Post will invoice these fees plus the incurred costs. It is basically up to the customer to inform herself/

himself about the export and import regulations and customs rules in force in each country. If the customer does not consider these provisions, she/he has to bear all the disadvantages, costs and risks resulting from the shipping. The risk on incorrect, incomplete or illegible information provided by the customer in the customs declarations is at the expense of the customer.

1.8.5 The customer is obliged to enter into an agreement with Post applying to the payment of recompense. This agreement is to entitle Post to withdraw the recompense owing from an account maintained at a bank located in the SEPA region. Post reserves the right to demand a bank guarantee. In the event that Austrian Post debits the charges under the SEPA direct debit scheme (SEPA CORE) or the SEPA business-to-business direct debit scheme (SEPA B2B) from the account indicated by the customer, Austrian Post shall pre-notify the customer no later than one day prior to the debiting of the account.

1.8.6 Refund of recompense  
Objections to the claims for payment made in the invoice are to be lodged in writing with Post within three months of the date of invoicing. A failure to do such will be deemed an acceptance of Post's claims for payment. The lodging of objections does not prevent the invoice from falling due for payment.

**1.9 Means of transport**

All means of transport (mail and rolling containers) provided by Post to the customer for the purposes of facilitating transport remain the property of the former. Uses not in accordance with these purposes (for instance: en route transporting or consigning to third parties; the conducting of in-house transports or utilizations; the storing of materials and other purposes) are not authorized. Risks arising from the employment are borne by the user. The customer is obliged to brief staff members and third parties, with this especially including natural and legal persons employing these means of transport, on the ways of utilizing them which accord to the purposes foreseen for them. These parties are also to be informed on the requirement to observe the precepts of the instructions of use and operation.

Items of transport are not to be stored in places foreseen for holding items for longer than dictated by a week's need.

**2 Consignment**

**2.1 Place and time of consignment**

The shipments are to be delivered to one of Post's distribution centers at the preset times of accep-

tance. Deliveries at any other times have to be agreed upon with Post on an individual basis. This can be done for, as an example, large-sized shipments.

**2.2 Delivery**

2.2.1 The shipments are to be delivered on pallets, or according to the regulations of the foreign postal operator.

2.2.2 The means of transport to be delivered are to be affixed with filled in forms according to the regulations of the foreign postal operator.

**2.3 Delivery list**

2.3.1 The distribution center of Post or the, with the client accorded, receiving center is to be provided by the customer or its agent with a delivery list – which is provided by Post and has to be completely filled in by the customer – and a distribution plan. A sample shipment is to be supplied to the distribution center for its records.

**2.4 Returning of shipments**

Special-purpose agreements have to be reached with Post for shipments which have been dispatched to a foreign postal operator and which are to be returned.

**2.5 Packaging, sealing and examination**

2.5.1 The shipments are to be delivered according to the regulations on packaging and sealing of the foreign postal operator.

2.5.2 The Post and the foreign postal operator are entitled at any time during the process of transport to examine samples of the shipments.

**3 Consignment (delivery)**

The consignment of shipments is to accord to the regulations of the foreign postal operator. A term of delivery is not guaranteed.

**4 Liability**

**4.1 Post's liability**

4.1.1 Regardless of legal causes, Post is only liable for those losses (failure to render services), serious damages of shipments, or delays (or inadequacies) of delivery which were demonstrably caused by it, and which occurred until the point of transfer to the foreign postal operator. Late deliveries to the latter and deficient, inadequate or non-provided lettershop services also constitute grounds for liability.

- 4.1.2 The decreeing of non-fulfillment or the invoking of guarantee clauses (inadequate fulfillment) causes the customer to have claims for being reimbursed for the payments made for those shipments and for lettershop services for which Post demonstrably did not or did not adequately render services.
- 4.1.3 Should the stipulations of these GSTC mandate the additional payment of indemnification to the customer, Post is liable only for those damages attributable to it or to persons which legal codes foresee as belonging to it, with these damages demonstrably and especially arising through loss, damages to shipments or delay. This liability only applies to cases of intent or gross negligence, with these having to be proven by the customer, and thus not to casual negligence, and only until the point at which the shipments were transferred to the foreign postal operator.
- 4.1.4 The customer has to prove that
- the Post did not fulfill the contract, or did not do such in an orderly way, and that
  - damages of a quantifiable amount were caused, and that
  - these damages were attributable to the Post's non or inadequate fulfillment of its obligations.
- 4.1.5 Delays giving rise to liability are considered to exist in those cases in which the shipments are transferred to the foreign postal operator more than five working days (excluding Saturday) after their day of consignment, or after the term agreed upon and contained in the offer. This term is to be doubled in cases in which the delay is due to a substantial increase in postal traffic (as is the case in the pre-Christmas period). It is also extended by the term of all events not originating from or influenced by the parties' will: acts of God, unforeseeable disturbances of corporate operations, official actions, transport accidents, and workforce-related conflicts.
- 4.1.6 "Serious damaging" is considered to have demonstrably occurred when the damaging has rendered the shipments incapable of being used or read. No claims for indemnification arise from damages incurring from the orderly and customary processing, transporting and loading of shipments.
- 4.1.7 The risk of accidentally occurring destruction (on a total or partial basis) of the shipments is to be borne by the customer.
- 4.1.8 Unless otherwise directly stipulated by legal codes, any liability for Post which is greater than the payment made for the shipments' postage or for lettershop services is excluded. This applies to profits which were not realized, delay-caused damages, damages incurred to assets, follow-up damages, savings and interest earnings which failed to accrue, and damages resulting from claims held by third parties and other parties vis-à-vis the sender.
- 4.1.9 All claims arising from serious damaging, delays or loss of shipments are forfeited by the failure to be placed in writing and submitted to Post within the four weeks subsequent to the working day (excluding Saturday) following the date of consignment or according to the agreed upon deadline in the offer to hand over items to the foreign postal operator.
- Deficiencies in lettershop services are to be communicated in writing to Post immediately upon their discovery, and within a maximum of four weeks subsequent to their provision. Failure to do such results in the provision being deemed orderly and proper (in accordance with (§§ 377,378 of Austria's Commercial Code UGB).
- 4.1.10 The Post is not liable for the accuracy of the customs declaration. Solely the customer is liable for the information in it.
- 4.1.11 Once the shipments have been transferred to the foreign postal operator, Post's liability is determined by the regulations of the foreign postal operator.
- 4.2 Disclaimer**  
The Post bears no liability in cases in which
- damages/deficient provision of services are attributable to packaging or other sender-caused deficiencies;
  - the contents of the shipments meet the stipulations of one or more of the prohibitions listed in point 1.4;
  - the shipments are confiscated or destroyed by an official body.
- 4.3 Customer's liability**
- 4.3.1 The customer is liable to Post for all damages incurring to people and property from the sending of non-authorized objects and non-observance of the conditions of authorization. The acceptance of such shipments by Post does not release the customer from such liability.
- 4.3.2 The customer is liable for the damaging or loss of the means of transport described in point 1.9.

4.3.3 The customer is not allowed to make Post liable for or to take recourse for cases in which the acceptance or delivery of shipments is refused by the foreign postal operator.

**5 Applicable law/place of jurisdiction**

**5.1** All disputes arising from or associated with this agreement are to be resolved using Austria's code of laws, and are to be excluded from the provisions of the UN's code of purchases and from stipulations designed to preclude conflicts among codes of law.

**5.2** The court of jurisdiction for this agreement is the one responsible for such matters in 1030 Vienna.

## **Österreichische Post AG**

### **Postkundenservice**

Business-Hotline: 0800 212 212

[www.post.at/kundenservice](http://www.post.at/kundenservice)

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Rechtsform: Aktiengesellschaft

Sitz in politischer Gemeinde Wien

FN 180219d des Handelsgerichts Wien