



# EXPRESS MAIL SERVICE

## General Terms and Conditions

Valid from 15.05.2019



## GENERAL TERMS AND CONDITIONS FOR EMS AUSTRIA AND INTERNATIONAL

Valid from 15.05.2019

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## 1 General part

### 1.1 Scope of application and legal basis

1.1.1 These General Terms and Conditions (hereinafter "GTC") are valid for the contractual legal relationship between Österreichische Post AG (hereinafter: "Post") and its customers in the area Express Mail Service (hereinafter: "EMS") Austrian and International. Express Mail Service is a standard international term used for express postal services.

1.1.2 The "Index of Products and Prices EMS Austria and International" in which the scope of services is defined in more details forms an integral part of these GTC.

### 1.2 Contractual relationship

1.2.1 Post provides its EMS Austria and International services exclusively according to the provisions of these GTC in their current version.

1.2.2 The contractual relationship with the sender is exclusively concluded on the basis of these GTC upon handover of the EMS shipment into the custody of Post (posting). Any regulations deviating from the GTC require an explicit written agreement.

1.2.3 Should an EMS shipment not comply with these GTC, Post may decline acceptance or return an EMS shipment already in its custody at any stage of transport. The sender shall bear any costs incurred.

1.2.4 If forms are required for Post to render services, these must be used in their current version and filled out by the sender. Forms not received from Post must correspond to those issued by Post (according to Post's label and avisodata primer (Belabelungs- & Avisodatenfibel) in terms of shape, size, colour and print. Post shall decide whether third-party forms are operationally compliant in the sense of these GTC.

### 1.3 Post customer service

Post Customer Service provides information and further details at the free hotline: 0800 010 100.

### 1.4 Determination and payment of fees

1.4.1 In principle, the sender shall pay the fee listed in the Index of Products and Prices EMS in cash at the moment of posting for all services used. No information concerning the payment of the fee must be affixed on the EMS shipment (neither franking-machine impression nor stamps).

1.4.2 It is not allowed to send EMS shipments for which the transport fee must be paid by the recipient.

1.4.3 Post may defer payment of fees according to separate agreements.

1.4.4 Fees paid for services that were not rendered shall be paid back by Post upon request of the sender within six months from the day following the posting of the shipment and if corresponding proof is presented.

1.4.5 For senders who have labelled their EMS shipment themselves with the agreement of Post and according to its specifications - with which the sender must

ensure compliance - the initial scan of the EMS shipment in one of Post's distribution centres serves as basis for accounting.

1.4.6 In the event that fees are debited from the bank account specified by the customer under the SEPA direct debit scheme (SEPA CORE) or the SEPA business direct debit scheme (SEPA B2B) by Post, a pre-notification is sent by Post at least one day before the account is debited.

### 1.5 Items excluded from transport

1.5.1 The following items are excluded from transport:

- EMS shipments mailings whose content, external design or transport violates legal provisions - whose violations will be pursued ex officio (e.g. Narcotic Substances Act (SMG), Act on Prohibition on National Socialist Activities 1947) - or injures individuals, harms human health or causes material damages;
- EMS shipments that are unsuitable for Post's operating system due to their content or condition (e.g. easily / quickly perishable (rotting) goods of any kind);
- Living animals.

1.5.2 Dangerous goods that fall within the scope of the Dangerous Goods Transport Act (Gefahrgutbeförderungsgesetz, GGBG, BGBl I 145/1998) as amended as well as dangerous waste and problem substances as laid down in the Waste Management Act (Abfallwirtschaftsgesetz 2002, AWG 2002, BGBl I 102/2002 as amended), are excluded from transportation, unless special provisions in the "General Terms and Conditions for sending hazardous goods" provide otherwise. Dangerous goods are substances, items, preparations or waste that exhibit at least one hazardous characteristic as defined in the provisions of the European Agreement on the International Carriage of Dangerous Goods by Road (ADR), e.g. explosive, gaseous, flammable, oxidizing, toxic, infectious, corrosive or radioactive.

1.5.3 In addition, the following are not authorised for transport with the EMS Austria service: Normal EMS shipments without indication of the value which contain an item listed under point 3.3.4 of the Index of Products and Prices EMS.

1.5.4 Furthermore, in addition to points 1.5.1 and 1.5.2, the following items are not authorised for transport in international EMS shipments:

- Alcoholic beverages (spirits);
- Goods of particular value (e.g. art objects; jewellery; antiquities; uncut gems; precious metals / stones; gold and silver (ware));
- Credit cards (blank and signed);
- Firearms of any kind (such as guns, handguns, hunting weapons, flare guns, sport guns and alarm guns, etc.) including parts or imitations of such munition;
- Skins and furs;
- Dangerous goods according to IATA regulations;



- Mortal remains (incl. ashes);
  - Watches that cost more than USD 100.00;
  - Illegal drugs, narcotics, tobacco and tobacco products;
  - Means of payment (e.g. cash, cash cheques);
  - Prepaid cards;
  - Obscene or indecent items;
  - Negotiable documents; bearer instruments and bearer value documents (deeds that grants the owner immediate claims to receiving a service or payment such as e.g. payment instructions, travellers cheques);
  - Plants and seeds;
  - Fakes, pirated copies or pirated products;
  - Military devices as well as reproductions of such;
  - Personal items and unaccompanied luggage when sending to a third country (= country outside the EU);
  - Goods that were not released for free circulation in the EU at the time of mailing;
  - Goods in connection with a customs document (ATA carnet) as well as
  - Goods intended for temporary import or export.
- 1.5.5 Information on additionally applicable exclusions pertaining to each country are available at the Post Customer Service (see point 1.3).
- 1.5.6 Post is not obligated to verify exclusions from transport. It is however entitled – unless otherwise required by law – to open and check shipments (in front of a witness) when there are reasonable grounds for suspecting that the shipment contains items that are excluded from transport, does not comply with the transport conditions or that the declared content does not correspond to the actual content. Regardless, the sender shall be responsible for the correct and complete declaration of the contents of the EMS shipment (see also point 1.7.2.5).
- 1.5.7 Should it be noticed that an EMS shipment contains items excluded from Post transport, it shall be handed over to the sender or the recipient insofar as this is possible without danger and unless legal provisions do not provide otherwise.
- 1.5.8 In case of imminent danger, Post is entitled to take measures to avert or reduce the danger.

## 1.6 Packaging and sealing

- 1.6.1 The sender undertakes to ensure appropriate transport packaging (= outer and inner packaging) as well as secure sealing. The packaging and the sealing must efficiently protect the content of the EMS shipment against loss and damage as well as against strains that the shipment is subject to during transport – pressure, impacts and falls in particular – during the entire course of transport. The packaging cannot allow to draw conclusions on the type and value of the content and must prevent access to the content without leaving

visible traces of an interference. Insofar as this is possible, packaging and sealing are checked for obvious defects upon posting. The undisputed acceptance of EMS shipments does not justify the assumption that the packaging or sealing does not present externally visible defects.

- 1.6.2 EMS shipments that are unsuitable for shipping due to their packaging, sealing or other reasons are not accepted or are sent back to the sender after acceptance. The sender shall bear any costs incurred up to the time of return.

## 1.7 Affixing the address and other information

- 1.7.1 EMS Austria
- 1.7.1.1 An address (not easily removable) in Latin letters and Arabic numerals as well as an EMS time sticker must imperatively be affixed on every EMS shipment. The address may – except for EMS shipments with indication of the value – also be placed under a transparent packaging, a window or on a sturdy label (address tag) affixed to the EMS shipment with sufficient strength. The address must contain the following information aligned left and from top to bottom:
- The recipient (natural or legal person);
  - The delivery point (in particular the street, house number and if necessary the staircase and door number) as well as
  - The postal code and city / town.
- 1.7.1.2 The desired transport service cannot be provided if the address is incorrect or incomplete.
- 1.7.1.3 For EMS shipments to PO box holders the delivery point must be accompanied by the information “box”. Should a post office have its own postal code for EMS shipments to PO box holders, it must also be indicated.
- 1.7.1.4 The mandatory sender details must be affixed on the address side – on the upper left side if possible – or in a way to exclude any confusion with the recipient address. For EMS shipments without indication of the value with the information “competition work”, reference numbers are also permissible as sender details.
- 1.7.1.5 The required documentation and information must be affixed on the largest surface of the EMS shipment.
- 1.7.2 EMS International
- 1.7.2.1 For EMS international shipments, either
- the EMS Express bill of lading
  - or
  - the EMS Express online bill of lading ([post.at/emsfrachtbrief](http://post.at/emsfrachtbrief)) must be used.
- 1.7.2.2 The sender information must be affixed legibly (preferably in block letters) in Latin letters and Arabic numerals. If possible, indicate a contact person with a telephone number / email address for questions /



clarifications.

- 1.7.2.3 The recipient information must be affixed legibly (preferably in block letters) in Latin letters and Arabic numerals. For deliveries in the country of destination, indicate, if possible, a contact person with a telephone number / email address. This information is mandatory for shipments to different countries (more information available at the Post Customer Service (see point 1.3)). Shipments cannot be addressed to PO boxes or "poste restante".
- 1.7.2.4 The desired transport service cannot be provided if the address is incorrect or incomplete.
- 1.7.2.5 The content must be detailed and described precisely on the EMS form (in particular due to the rigorous safety regulations for air traffic). General formulations such as "samples", "sport equipment", "metal objects", "clothes", "PC parts", etc. are not permissible. For further information, contact the Post Customer Service (see point 1.3). Consult the definition list of the corresponding country to know whether the EMS shipment content is to be listed as document or goods shipping. For further information, contact the Post Customer Service (see point 1.3).
- 1.7.2.6 When sending goods that might be rejected as dangerous because they bear an unusual designation or look conspicuous, it must be indicated clearly on the EMS form (field 3) that these are not classified as dangerous. The information "not restricted" must be entered.
- 1.7.2.7 It is the sole responsibility of the sender to learn about the applicable import, export and customs provisions in each country. Should the sender not respect these provisions, it shall bear all disadvantages, costs and risks resulting from the shipping. For further non-binding information on export regulations, contact the Post Customer Service (see point 1.3).
- 1.7.2.8 In the EU (with the exception of third territory (*Drittlandsgebiete*), merchandise shipments do not require additional accompanying documents if the country of origin of the merchandise is an EU country or if customs for the merchandise was cleared upon importation in the EU.

## 2 Posting

### 2.1 Place and time of posting

- 2.1.1 EMS shipments can be posted at a post office or at another access point intended for this purpose during opening hours. Precise acceptance times can be agreed separately with Post, e.g. in case of shipping large quantities.
- 2.1.2 The day on which the EMS shipment was handed over to Post is only considered as the posting day if the EMS shipment was handed over before the closing time for EMS shipments provided in the service overview.

### 2.2 Proof of posting

The posting of an EMS shipment is confirmed to the sender.

## 3 Delivery

EMS shipments are delivered to the recipient, the person authorised to receive shipments, an alternative recipient (point 3.1.4) or are deposited at the post office. The person accepting shipment must confirm reception of the EMS shipment with their signature (on the signature field of a mobile instrument / hand-held computer or on paper). The digitalised form of the signature provided by the recipient and the reproduction of such a signature are recognised as a proof of delivery by the sender.

### 3.1 Delivery via handover in Austria

- 3.1.1 EMS shipments are delivered by Post unless explicitly provided otherwise below. The delivery confirmation is made by documenting the time and date of delivery. The recipient is informed of any failed delivery attempts, if possible by phone or by other rapid means. The recipient can conclude a special agreement on the delivery of EMS shipments addressed to them.
- 3.1.2 EMS shipments with an indicated value and / or COD exceeding EUR 3,000.00 are not delivered but must be picked up by the recipient at the indicated post office during the defined opening hours.
- 3.1.3 EMS shipments labelled as "personal" (subject to a fee) are exclusively handed over to the recipient (natural persons) after conduct of an identity check.
- 3.1.4 Substitute delivery
  - 3.1.4.1 The delivery of an EMS shipment without or with an indicated value up to EUR 1,500.00 (limit for substitute deliveries) is deemed duly fulfilled if this EMS shipment is handed over according to the conditions stated below to a legally competent and consenting person – other than the recipient or the person authorised to receive shipments – who is present at the delivery point of the recipient or of the person authorised to receive shipments, so long as there is no doubt as to their right to accept the shipment (in particular porters, employees in mail reception centres or goods acceptance), (substitute recipient), and the recipient has not objected to this in writing beforehand. The substitute recipient can also receive notifications concerning EMS shipments that cannot be delivered to the delivery point under the same conditions.
  - 3.1.4.2 EMS shipments without indication of the value and without COD that are addressed to a natural person may also be delivered to a neighbour under the same conditions for substitute delivery, if no person authorised to receive shipments is available at the point of delivery and the recipient has not objected to this. The recipient must be informed of this in writing.
  - 3.1.4.3 When transmitting the form "Parcel substitute delivery to a trusted person" to Post, EMS shipments – that are addressed to a natural person – can also be delivered to a neighbour or substitute recipient in the neighbourhood if no person authorised to receive shipments is available at the point of delivery. No legal relationship of any kind shall be formed between the named trusted person or the named substitute



recipient and Post; therefore, no claims can be made against Post by these persons. Once the shipment has been handed over to the trusted person or the substitute recipient, the delivery process is concluded and Post has performed its service duly.

3.1.4.4 If the recipient has named specific persons as substitute recipients in writing to Post, it shall only deliver the shipment to these persons as an alternative.

3.1.4.5 Post may demand that, for recipients at community houses (hostels, tourist accommodations etc.), on camping sites or at other delivery points where delivery is not possible without considerable impediments to Post's operations, the authorised parties at the delivery point (owner, manager, operator, etc.) must name one or several persons as substitute recipients at the delivery point for EMS shipments without indication of value. If no substitute recipient is named or if a substitute recipient objects to the substitute delivery, Post may treat incoming EMS shipments that cannot be duly delivered in any other way as undeliverable.

3.1.4.6 The following are excluded from substitute deliveries:

EMS shipments that have arrived damaged. This does not apply to damaged EMS shipments that have been delivered on request of the sender or recipient after determination of the damage.

### **3.2 Pickup at the post office counter in Austria**

3.2.1 Recipients who wish to reserve the pickup of their EMS shipment must conclude a written agreement with the post office of delivery. A pickup reservation agreed by the recipient for other postings is not valid for EMS shipments.

3.2.2 Post shall charge a post storage fee according to the Index of Products and Prices EMS for picking up EMS shipments at the request of the recipient as well as for storage until pickup at the request of the sender.

3.2.3 For undeliverable shipments a notification is left at the delivery point ("Yellow Sheet"). These EMS shipments are held at the post office or an alternative delivery appliance for self-collection as indicated on the notification (or notice) for a minimum period of 14 calendar days. EMS shipments with the information "poste restante" are held for pickup without delivery. Pickup at a post office is in principle possible from the next working day following the notification (notice) (except Saturdays) or, in case of "poste restante" EMS shipments, from the day of arrival, unless an earlier pickup date was indicated by Post. When collecting an EMS shipment from an alternative delivery appliance for self-collection, the person must prove they are entitled to pickup the shipment by presenting the pickup code indicated on the notification. The handover of an EMS shipment is documented electronically. Once the collection deadline has expired, EMS shipments are handled as undeliverable.

### **3.3 Proof of identity**

3.3.1 The recipient must establish its identity – if it is not beyond doubt – by presenting an official document

(which includes the name, date of birth and signature of the recipient as well as a non-removable recognisable photograph and that was issued by the authorities or another public law body) or through a witness who is personally known by the employee or deliverer of Post tasked with handing over the shipment. If an EMS shipment must be handed over to a person authorised to receive shipments or a substitute recipient, that person must authenticate their identity as well as demonstrate their right to receive the shipment if it is not beyond doubt.

3.3.2 The identity of persons whose official documents required for establishing their identity were confiscated due to legal or administrative proceedings or whose documents have not been issued can be confirmed by a witness who is professionally involved with supporting such people. Entrustment must be proven by an official document issued by the competent authority and also have the characteristics listed under point 3.3.1.

### **3.4 Delivery of EMS shipments abroad**

The delivery of EMS shipments abroad takes place through delivery by or pickup from Post's cooperation partners and according to the provisions of the target country. The shipment is delivered to the recipient or to a person authorised to receive shipments. For further information is available at the Post Customer Service (see point 1.3).

### **3.5 Customs clearance of EMS shipments from abroad**

3.5.1 EMS shipments from abroad which must be presented to customs have priority over all other shipments.

3.5.2 For EMS shipments which are subject to customs fees, an additional fee for customs clearance according to the Index of Products and Prices EMS must be paid.

3.5.3 When picking up the EMS shipment, the person who receives the shipment (recipient or person authorised to receive shipments) undertakes to immediately pay the customs fee in the amount assessed by the customs office without the intention of appealing against the customs tax notice of Post. The customs confirmation shall be granted upon collection of the amount. Any appeal against tax assessments shall be addressed to the customs office.

### **3.6 Redirection / Parcel redirection in Austria**

3.6.1 EMS shipments are redirected if the recipient has concluded a redirection agreement or the recipient uses the parcel redirection.

3.6.2 The sender is entitled to exclude redirection by applying the information "Do not redirect" (free of charge). Post is bound by the sender's wish in that matter, which even takes precedence over a redirection order. Post shall not disclose the recipient's new address to the sender.

### **3.7 Undeliverable EMS shipments**

3.7.1 EMS shipments are undeliverable if neither delivery nor redirection is possible.

3.7.2 EMS shipments are also deemed undeliverable if



- the recipient refuses to accept the EMS shipment, does not pay the COD amount or the fees and costs borne by the EMS shipment or does not produce the acceptance confirmation;
- the collection deadline has expired;
- it was determined after posting that the EMS shipment is excluded from Post transport;
- the correct recipient cannot be determined;
- the reception authorisation cannot be established.

3.7.3 Undeliverable EMS shipments (with an Austrian sender's address) are returned to the sender. EMS shipments that contain items excluded from transport and whose return could injure persons, harm human health or cause material damages as well as EMS shipments without an Austrian sender address are not returned. In such cases, the sender will be informed about the undeliverable shipment and the location where it can pickup the EMS shipment within a period of one month.

3.7.3.1 The sender shall bear all costs incurred by the return of the EMS shipment. The sender may not refuse to accept the shipment. If acceptance is still refused, the sender shall also be charged any incurred storage and disposal costs.

3.7.4 The sender shall bear transport fees for the return of undeliverable EMS shipments abroad to the sender in Austria (in addition to any storage, customs or handling fees).

### 3.8 Unclaimed EMS shipments

3.8.1 Undeliverable EMS shipments that cannot be delivered to the recipient and cannot be returned to the sender are treated as unclaimed (*unanbringlich*) and are opened by Post. Should this allow to determine either the recipient or the sender, the EMS shipment is forwarded for delivery. In any other case, EMS shipments are kept for three months. The retention period starts on the first day of the month following the opening of the shipment. The sender can reclaim the EMS shipment against payment of the fees and expenses tied to the EMS shipment within the retention period.

3.8.2 COD amounts that cannot be transferred to the sender are treated as unclaimed (*unanbringlich*). The sender is entitled to transfer of the COD amount on the domestic bank account specified by it within a period of 3 years (from the next working day following payment).

3.8.3 The EMS shipment becomes the property of Post after expiration of the retention period.

3.8.4 If both the recipient and the sender refuse to accept or take back the EMS shipment, the EMS shipment is considered relinquished after expiration of a retention period of 14 calendar days and can be sold by Post. Unusable or perished contents can be destroyed.

### 3.9 "Track & trace" and inquiries

3.9.1 Inquiries concerning EMS shipments are handled by

Post, without prejudice to an eventual later investigation procedure, preferably by telephone. Post gives information on EMS shipments, unless otherwise stipulated by law, only to the sender or recipient if the person making the inquiry credibly proves to be entitled to do it and indicates the EMS tracking number of the EMS shipment.

3.9.2 The sender can inquire about the correct delivery of the EMS shipment (or in case of a COD order, about the correct collection and transfer of the COD amount) within three months from the day following the mailing of the shipment – upon presentation of the proof of posting or notification of the shipment number – and has to fill out completely the corresponding form. (The sender can track EMS shipments on the webpage [post.at/sendungsverfolgung](http://post.at/sendungsverfolgung) for free by entering the EMS tracking number.)

3.9.3 If the inquiry results in the conclusion that the service was duly performed by Post, the sender has to pay the inquiry charges when being informed about the inquiry result.

## 4 EMS "money back guarantee"

### 4.1 EMS Austria

The sender shall be refunded the fee paid for transport plus fees for additional services (with the exception of the fee for shipment with indication of the value) according to points 3.2.1, 3.2.2 and 3.4 of the Index of Products and Prices EMS at its request if the delivery date and time acc. to point 3.1.1 of the Index of Products and Prices EMS was exceeded by more than 15 minutes and the sender has reported this in writing within 21 days from the day of delivery.

### 4.2 EMS International EU

4.2.1 For transport within the EU (zones 1a and 1b), the sender shall be refunded the fee paid for transport plus fees for additional services according to points 6.2 and 6.4 of the Index of Products and Prices EMS at its request if the delivery date and time acc. to point 5.1 of the Index of Products and Prices EMS was exceeded and the sender has reported this in writing within 21 days from the day of delivery.

4.2.2 To benefit from the money back guarantee for EMS International EU, the shipment must be handed over at selected post office in the provincial capitals.

### 4.3 Delivery deadline

The delivery deadline shall be extended by the duration of the disruption for circumstances beyond the control of the parties such as e.g. cases of force majeure, unforeseeable operational interruptions, official interventions, transport accidents and labour conflicts.

### 4.4 When does the "money back guarantee" not apply?

4.4.1 The EMS "Money Back Guarantee" does not apply if the delivery deadline was exceeded due to the sender's violation of these General Terms and Conditions or to circumstances for which Post or their attributable third parties are not responsible.



4.4.2 The "Money Back Guarantee" pursuant to point 4.1 is not applicable for EMS shipments according to point 3.6.

## **5 Liability / Place of jurisdiction**

### **5.1 Liability of Post**

5.1.1 If EMS shipments are demonstrably heavily damaged by Post or delayed (see point 5.1.2) or not at all delivered to the recipient, the customer is entitled to assert warranty claims according to point 5.2 or compensation claims according to 5.3.

5.1.2 Delivery deadline

5.1.2.1 A delay that gives rise to liability occurs if EMS shipments in Austria are delivered to the recipient or are held at the post office for pickup later than two working days (except for Saturday) from the next day after posting the EMS shipment. No liability is assumed for delays of international EMS shipments.

### **5.2 Warranty**

5.2.1 If EMS shipments are demonstrably heavily damaged by Post or not at all delivered to the recipient, the customer is entitled – with regard to these EMS shipments only – to request a new delivery – insofar as the EMS shipments are provided again by the customer at their expense – without paying a fee (except for the fee for shipment with indication of the value); if this is not possible or entails a disproportionately high effort for Post, Post may refund the customer the fee for the EMS shipment that was demonstrably heavily damaged or not delivered at all. If EMS shipments are delayed, the customer can only reclaim the fee for the EMS shipment if it was demonstrably delivered with a delay.

5.2.2 If the COD amount collected by Post is not transferred to the recipient indicated by the sender or if the COD amount is not collected upon delivery of the EMS shipment, the sender can request the payment of the collected COD amount or an amount equal to that of the COD amount to be collected from Post.

5.2.3 Customers must assert this right according to points 5.2.1 and 5.2.2 within 2 years and companies within the meaning of Sec. 1 of the Consumer Protection Law within six months; the deadline according to point 5.2.1 starts on the working day (except for Saturday) following the last day of the delivery deadline (Sec. 933 of the Austrian Civil Code), the deadline according to point 5.2.2 on the working day following the day of collection or delivery.

5.2.4 If the transport of EMS shipments for the customer takes place as part of a company transaction, he / she must immediately inform Post in writing of the damage, delay and / or loss; if the customer refrains from making this notification, then the transport is considered duly performed (Sec. 377, 378 of the Austrian Corporation Code).

### **5.3 Compensation**

5.3.1 Post is liable to the customer for damages caused by it or by a legally related person, in particular due to delay,

heavy damage or loss of an EMS shipment, only in cases of intent and gross negligence. Post is not liable for damages due to slight negligence; this does not apply for customers within the meaning of Sec. 1 of the Consumer Protection Law for personal damage and damage to items that were accepted by Post for processing.

5.3.2 If the COD amount collected by Post is not transferred to the recipient indicated by the sender or if the COD amount is not collected upon delivery of the EMS shipment, the sender can request the payment of the collected COD amount or an amount equal to that of the COD amount to be collected from Post.

5.3.3 If EMS shipments are demonstrably heavily damaged by Post or not delivered at all to the recipient, the customer is entitled – with regard to these EMS shipments only – to request a new delivery – insofar as the EMS shipments are provided again by the customer at their expense – without paying a fee (except for the fee for shipment with indication of the value); if this is not possible or entails a disproportionately high effort for Post, Post can refund the fee (except for the fee for shipment with indication of the value) for these EMS shipments that were demonstrably heavily damaged or not delivered at all to the customer. If EMS shipments are delayed, the customer can only reclaim the fee (except for the fee for shipment with indication of the value) for the EMS shipment if it was demonstrably delivered with a delay.

Liability shall only be assumed for actual damage to the EMS shipment or its content. Any further liability of Post, in particular for loss of profit, financial losses, consequential damages, as well as damages resulting from third party claims against the customer, etc., is excluded unless mandatory legal provisions should provide otherwise.

5.3.4 The amount of the compensation to be paid by Post (only under the condition that there is no exclusion of liability according to point 5.4):

- Domestic EMS shipments without indication of the value: max. EUR 1,500.00;
- For domestic EMS shipments with indication of the value, the indicated actual value (market value),
- For domestic EMS shipments with indication of the value whose content is fragile or sensible to vibrations and was not labelled with the sticker "Fragile" acc. to point 3.1.2 of the List of Products and Prices EMS, with respect to breakage or vibration damages up to EUR 1,500.00;
- For domestic EMS shipments with indication of the value whose indicated value is lower than the actual value, the indicated value;
- For international EMS shipments, up to EUR 510.00.

5.3.5 Apparent damages or partial losses must be notified in writing on the next working day following delivery of the EMS shipment at the latest (except for Saturday) at a post office. If the damages or partial losses are not





apparent, they must be notified in writing within one week from the next working day following delivery of the EMS shipment at the latest (except for Saturday) at the post office where the EMS shipment was posted or at the post office where the EMS shipment was handed over. If no notification of claim (damage report) is filed within the indicated period, all claims relating to that point are forfeited, unless the timely notification of claim was prevented by a demonstrably unforeseeable or unavoidable event and is made within one week following the removal of the impediment.

5.3.6 The claimant must prove his conclusion of an agreement with Post by presenting the posting cheque and credibly demonstrate the actual value (market value) using corresponding documents.

5.3.7 The compensation amounts according to point 5.3.4 do not apply for consumers within the scope of the Consumer Protection Act (KSchG) as amended insofar as the consumer has respected all obligations listed in these GTC and the Index of Products and Prices EMS, point 1.5 of these GTC and points 3.3.2 and 3.3.4 of the Index of Products and Prices EMS in particular, and the damages are due to Post's gross negligence or wilfulness.

#### **5.4 Exclusion of liability**

5.4.1 Liability of Post is especially excluded if

- the damage is due to insufficient packaging, the natural character of the transported item, or a fault of the sender;
- a domestic EMS shipment without indication of the value and whose content is fragile or sensible to vibrations was not labelled with the sticker "Fragile" acc. to point 3.1.2 of the Index of Products and Prices EMS, with respect to breakage or vibration damages;
- the content of the EMS shipment falls under the prohibitions listed under point 1.5 or the EMS shipment was seized or destroyed by the authorities.

#### **5.5 Common provisions for warranty and compensation**

5.5.1 A heavy damage is deemed to have occurred if the EMS shipment becomes unusable, etc., due to said damage. Damages caused by proper and usual transport or loading shall not generate any warranty or compensation claims.

5.5.2 The delivery deadline shall be expanded to twice the time if the delay is caused by a considerable increase in postal traffic (e.g. before Christmas).

5.5.3 The delivery deadline shall be extended by the duration of the disruption for circumstances beyond the control of the parties such as e.g. cases of force majeure, unforeseeable operational interruptions, official interventions, transport accidents and labour conflicts.

5.5.4 The customer shall bear the risk for the accidental total or partial loss of the EMS shipment.

5.5.5 The sender may only offset claims which are undisputed or legally binding or exercise a right of retention.

#### **5.6 Liability of sender**

5.6.1 The sender of an EMS shipment is liable to Post for all damages, costs and expenses that occurred as a result of the shipment of items excluded from transport or as a result of the non-observance of the conditions of transport, and must pay Post at least one third of the agreed transport fee as a compensation. Post reserves the right to claim further damages, costs (in particular transport costs) and compensations. The sender shall indemnify Post from and against any third-party claims. Post's acceptance of such an EMS shipment does not release the sender from their liability.

5.6.2 The sender shall be liable for three years from the day of posting the EMS shipment for any fees not paid as well as for amounts charged by Post to the sender in relation with proper transport. Post has the right to retain the EMS shipment as a security for its claims and to realise the security by sale of the item if the sender and/or the recipient refuse to pay the fees or expenses for the EMS shipment.

#### **5.7 Data protection**

5.7.1 Post is compliant with data protection provisions set out in the Austrian Data Protection Act (Federal Act on the Protection of Natural Persons with regard to the Processing of Personal Data, BGBl I 120/2017, Datenschutzgesetz hereafter "DSG"), the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data, hereafter "GDPR") as well as the Austrian Telecommunications Act (BGBl I 70/2003, hereafter "TKG") or any subsequently applicable statutory provisions.

Any data customers share with Post may be used for business processing purposes.

5.7.2 The sender hereby confirms that he / she is authorized to transmit recipient information (in particular email address and telephone number) for the purpose of providing postal services. The sender agrees to refrain from holding Post to account for legal claims and damages in this matter.

#### **5.8 Place of jurisdiction / Applicable law**

5.8.1 For all legal disputes arising out of or in connection with the contractual relationship entered into on the basis of these GTC – except for point 5.8.2 – the court competent to rule on the subject matter in the capital of the Federal State (in Vienna: 1030 Vienna) in which the letter mailing was taken to be posted is the place of jurisdiction.

5.8.2 In the event of a legal action against a consumer whose place of residence or habitual residence is in Austria or who are employed in Austria, the court of their place of residence, habitual residence or place of employment shall be competent.

5.8.3 The contractual relationship entered into on the basis of these GTC shall be governed by and construed in accordance with Austrian law, with the exclusion of



CISG and conflict of law provisions.



## Österreichische Post AG

### Post Customer Service

Hotline tel.: 0800 010 100

[post.at/kundenservice](https://post.at/kundenservice)

Headquarters, business area "Parcel Austria"

Rochusplatz 1, 1030 Vienna

[post.at](https://post.at) | [post.at/sendungsverfolgung](https://post.at/sendungsverfolgung)

Legal form: joint-stock company

Headquarters in the political municipality of Vienna

registered under FN 180219d at the Commercial Court of Vienna

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