

INFO.MAIL

GENERAL TERMS AND CONDITIONS

Valid from 1 January 2019

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TABLE OF CONTENTS

1	General section	3
1.1	Scope and legal basis	3
1.2	Contractual relationship	3
1.3	Austrian Post range of services	3
1.4	Objects excluded from transport	3
1.5	Determining and paying charges	3
1.6	Transport resources / compensation	4
2	Posting	4
2.1	Place of posting	4
2.2	Return of items	4
3	Hand-over	4
3.1	Posting through delivery	4
3.2	Pick up from an Austrian Post branch	4
3.3	Undeliverable Info.Mail items	5
3.4	Undeliverable and unreturnable Info.Mail items	5
4	Liability	5
4.1	Austrian Post's liability	5
4.2	Liability exclusion	6
4.3	Special provisions for entrepreneurs iSd UGB	6
4.4	Liability of the sender	6
4.5	Legal recourse and jurisdiction	6

1 General section

1.1 Scope and legal basis

1.1.1 These general terms and conditions (hereafter referred to as "GTC") apply to the contractual legal relationships between Österreichische Post AG (hereafter referred to as "Austrian Post") and its customers for the shipping and delivery of Info.Mail (direct advertising mail) in Austria.

1.1.2 An integral part of these GTC is the Index of Products and Prices Info.Mail (hereinafter referred to as "PPI"), which defines the range of services in more detail.

1.1.3 These GTC are based on the regulations of the postal market act (BGBl I 2009/123 as amended) and published in accordance with § 20 PMG.

1.1.4 In accordance with the postal market act (PMG) as amended, postal services regarding postal items up to 2 kg are part of the universal service upon handover to the access sections as defined by law (see section 2). For such postal services, unless agreed otherwise in individual cases, these GTC apply exclusively.

1.2 Contractual relationship

1.2.1 The contractual relationship between the sender and Austrian Post comes into effect upon the handover of the consignment to Austrian Post (posting) at the postal branches. More information is available from Austrian Post customer service.

1.2.2 If a consignment is not in accordance with the provisions of these GTC, in particular section 1.4.1 and section 1.5.1, Austrian Post has the right to

- refuse to accept the consignment for transport;
- return a posted consignment to the sender, whatever transport stage it is in.

1.3 Austrian Post range of services

1.3.1 Austrian Post transports Info.Mail items in accordance with these GTC up to a weight of 2 kg, and which meet the shipping conditions and product specifications of the PPI. The postal items are delivered in accordance with section 3.

1.3.2 Info.Mail items are identical consignments with regard to format and weight with advertising content, of which at least 400 units are posted at the same time.

1.4 Objects excluded from transport

Austrian Post is not obligated to check transport

exclusions; however, in the case of suspected excluded objects it has the right to open and check such consignments.

1.4.1 Objects excluded from transport

- Items whose content, external design or transport violates legal regulations and must be prosecuted (e.g. narcotic substances act, prohibition act 1947 (Verbotsgesetz));
- Letters whose content or characteristics are unsuitable for the operation system of Austrian Post;
- Items whose content or external design may cause damage to persons, be harmful to their health or cause material damage;
- Items whose characteristics are similar to Austrian Post forms or public authority forms (such as deposit notices, notifications, advice of delivery letters). Austrian Post decides whether there is a similarity.

1.4.2 Transporting hazardous substances

Hazardous substances subject to the scope of the hazardous goods act (GGBG, BGBl I 145/1998) as amended as well as hazardous waste and harmful substances in accordance with the Waste Management Act (AWG 2002, BGBl I 102/2002 idgF) are excluded from transport unless special provisions are made in the "General terms and conditions for sending hazardous goods". Hazardous goods are substances, objects, preparations or waste that have at least one hazardous property of the properties listed 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 Determining and paying charges

1.5.1 The sender is obligated to pay the appropriate charge for each service of Austrian Post as listed in the Product and Price Index (PPI) Info.Mail as amended when posting an item.

The charges must be paid in accordance with PPI by paying cash when the item is posted, or, if this has been agreed separately, by debiting a giro account in a credit institute based in the SEPA zone.

Austrian Post can defer the charges by separate agreement. Austrian Post reserves the right to request a bank guarantee.

In case the charges are debited from the account named by the customer as part of the SEPA direct debit scheme (SEPA CORE) or the SEPA direct debit scheme (SEPA B2B) by Austrian Post, there will be

a pre-notification to that effect by Austrian Post no later than one day before the account is debited.

For items that were originally sent by other delivery organisations and are now handed over to Austrian Post to be returned, the postage provisions and charges in accordance with GTC Brief National apply.

1.5.2 Repayment of charges

Charges already paid will be reimbursed to the sender if

- the sender has demonstrated to Austrian Post within a period of three months that the charges paid were too high; the sender is then entitled to a reimbursement of the difference only,
- the sender demonstrates that the item was not transported and entrusts the item to Austrian Post.

1.6 Transport resources / compensation

All transport resources of Austrian Post (letter containers, roll containers, etc.) that are made available to the customer are the property of Austrian Post; inappropriate use (e.g. intermediate transport to third parties and/or passing them on, company internal transports/use, storage of materials, etc.) is always prohibited. Customers use these resources at their own risk. The customer is obligated to inform employees and third parties, in particular natural and legal persons, who use these transport resources of their correct use and the requirement to comply with the provisions of the instruction manual and/or operating instructions.

Transport resources must not be stockpiled for more than one week's usage.

In the case of damage or loss Austrian Post has the right to claim damages.

2 Posting

2.1 Place of posting

Info.Mail items can be posted at the Austrian Post branches.

The sender is not entitled to his instructions being observed once an item has been posted.

2.2 Return of items

2.2.1 Once an item has been posted the sender can only request the return of those items that are still at the collection section. The items are returned to the sender only if he confirms in writing that he has taken the item back.

2.2.2 If the item is no longer at the collection point, and if the sender wishes the item to be returned, then a special agreement has to be made with Austrian Post and a cost-based charge for the return must be paid.

3 Hand-over

Info.Mail items are handed over either through delivery (section 3.1) or pick-up (section 3.2).

Info.Mail items are delivered within five working days (except Saturday) to the recipient address. This period starts the working day (except Saturday) after the item was posted. If there is a valid forwarding order, this period is extended by the amount of time the forwarding takes.

3.1 Posting through delivery

The Info.Mail items are delivered to the delivery point specified on the postal item.

The items are placed in a designated place (e.g. letterbox, letterboxes in residential buildings, P.O. Box, collective letterboxes in rural areas). If it is not possible to make a delivery to such a facility, if reaching the address of the recipient involves unreasonable difficulties or is dangerous for the delivery person, then this item will be kept for the recipient until the end of the pick-up period at the notification section designated by Austrian Post if the sender, despite advance notification by Austrian Post, has not made available the correct hand-over facility and/or has not eliminated the difficulties in time.

Austrian Post is not obligated to use its own staff to perform this service.

If a third party (a subcontractor) is commissioned it may be necessary for the customer to comply with specifications deviating from these GTC with regard to lead time, dispatch, use of the dispatch preparation tools provided by Austrian Post as well as dispatch documents. In such cases Austrian Post informs the customer in time about the type and scope of the changes.

3.2 Pick up from an Austrian Post branch

Regarding Info.Mail items that could not be delivered, a notification will be left in the designated facility at the delivery point. These items the customer has been notified of will be retained for pick-up until the third Monday following the day of notification in the place specified by Austrian Post on the notification. The mail item can be picked up no earlier than on the working day (except Saturday) following the notification. Any Info.Mail items that are still stored at the place specified in the notification will be considered undeliverable.

- 3.3 Undeliverable Info.Mail items**
- 3.3.1 Info.Mail items are undeliverable if they cannot be delivered to the recipient, authorised person or substitute recipient and the item has not been forwarded.
- 3.3.2 Undeliverable mail items will be returned to the sender subject to a charge, if the item contains a clearly visible sender address in Austria and the item does not contain above the recipient address clearly visible in bold the notice "Returns to PO Box 555, 1008 Vienna" or "Do not return" or a similar notice with the same meaning. The minimum font size for the return notice is 10 pt. The charge for the return must be paid by the sender in accordance with PPV when he posts the item.
- 3.3.3 Info.Mail items are considered undeliverable in particular when
- the recipient refuses to accept the mail item,
 - the collection period has lapsed,
 - it has been established after the item was posted that it cannot be delivered by post,
 - the delivery section on the mail item is unclear or incomplete.
- 3.4 Undeliverable and unreturnable Info.Mail items**
- 3.4.1 The sender agrees when posting the Info.Mail item that undeliverable mail items will become the property of Austrian Post after six months. Austrian Post has the right to sell by auction the content of the mail item once it has taken possession of it to cover any expenses.
- 3.4.2 Undeliverable mail items in accordance with section 3.3, that are not returned to the sender are considered undeliverable and will be destroyed after six months.
- 4 Liability**
- 4.1 Austrian Post's liability**
- 4.1.1 Guarantee
- 4.1.1.1 Austrian Post is liable to the sender due to a guarantee of loss (failure to perform), damage and delay (faulty performance) it is responsible for.
- 4.1.1.2 From the title of the guarantee (strict liability due to failure to perform or faulty performance) the sender is entitled to reimbursement of the charge for those items for which the no service was performed or the service was faulty.
- 4.1.1.3 The sender has a duty to prove that Austrian Post has not or not properly fulfilled the contract.
- 4.1.2 Compensation
- 4.1.2.1 Austrian Post is liable for compensation for loss (failure to perform), damage and delay (faulty performance).
- 4.1.2.2 If the sender is entitled for compensation, then Austrian Post is liable for damages caused by it or persons legally assigned to it – loss, damage or delay – only in the case of intent or gross negligence; Austrian Post is not liable for damages caused by slight negligence; this does not apply in relation to consumers iSd § 1 KSchG for personal damage and damage to objects that Austrian Post accepted for processing.
- 4.1.2.3 The sender must show that
- Austrian Post did not or not properly fulfil the contract;
 - damage of a certain amount has occurred and
 - the damage is due to Austrian Post not having properly fulfilled the contract.
- 4.1.2.4 Liability is assumed only for direct damage to the mail item or its content, i.e. damage that the sender has incurred as a result of the mail having not been delivered to the recipient or in a damaged state. Austrian Post is not liable for damages above and beyond this, in particular for loss of profit, damages caused by default, financial loss, consequential damages, unrealised savings, loss of interest and damages resulting from third party claims against the sender.
- Common regulations for guarantee and compensation for damages:
- 4.1.3 A delay giving rise to a claim exists if Info.Mail items are delivered after the 5th working day (except Saturday) of the day of posting. This period is extended through all circumstances beyond the parties' control, such as cases of force majeure, unforeseeable operational disruptions, regulatory interventions and labour disputes by the duration of the obstruction.
- 4.1.4 A damage giving rise to a claim exists if the Info.Mail items are, as a result of the damage, unusable, illegible, etc. and/or the content of the Info.Mail items get damaged. Damages that occur in the course of correct and normal transportation, correct and normal processing and/or loading, do not give rise to a claim. Similarly, damage to the cover or packaging

(e.g. envelope) does not give rise to a legitimate claim.

4.1.5 The risk of accidental perishing, complete or partial, of Info.Mail items is borne by the sender.

4.2 Liability exclusion

Liability by Austrian Post is excluded in particular when

4.2.1 the damage is due to unsuitable packaging and/or mode of transport given the natural properties of the transported item;

4.2.2 the content of the consignment is subject to one of the prohibitions listed under section 1.4 and if it has been confiscated or destroyed by a public authority.

4.3 Special provisions for entrepreneurs (iSd UGB)

In addition to the general terms and conditions further conditions mentioned below apply to entrepreneurs iSd UGB.

4.3.1 Obligation to give notice of a fault

- The sender is entitled to guarantee claims and claims for damages only if defects and delays are objected to in writing within one week following the delivery of the mail item.
- Over and above the obligation to notify of a fault mentioned in the previous section, obvious damages or partial losses must be objected to in writing the working day (except Saturday) following the delivery of the mail item.
- If no damage is reported within this period, all guarantee claims and claims for damages expire.

4.3.2 Liability

- In addition to the requirements set out in section 4.1.2.3, the sender must prove wilful intent or gross negligence to Austrian Post.
- The sender must assert by judicial process any claims for damages against Austrian Post within six months of knowledge of the damage and the damaging party. This period does not include the period between the beginning and termination of any proceedings before the postal bureau, up to a maximum duration of three months.
- If the damage and the damaging party are unknown the general period for asserting a claim is three years, starting from the date the contract was concluded with Austrian Post.

4.4 Liability of the sender

4.4.1 The sender of an Info.Mail item is liable to Austrian Post for any damage to persons and objects that are incurred as a result of the shipment of prohibited objects or due to the non-observance of these GTC. The acceptance of such a mail item by Austrian Post does not relieve the sender from his liability, unless the defect was obvious when the item was accepted. The sender indemnifies and holds harmless Austrian Post with regard to third part payment claims in connection with the proper transport of this mail item for the sender.

4.4.2 The sender shall be liable for a period of twelve months starting on the day the Info.Mail item was posted for any charges not paid and for any amounts that Austrian Post has legitimately paid for the sender in connection with the correct transport of this mail item. The twelve month limitation period will be interrupted if Austrian Post asserts a claim out of court against the sender for the unpaid charges or the above amounts within the limitation period.

4.4.3 In order to secure any claims for amounts owed to Austrian Post in connection with the proper transport of a mail item, Austrian Post shall be entitled to retain mail items and sell these by public auction after a period of twelve months if the sender and the recipient refuse to pay the charges or expenses arising incumbent on the mail item.

4.5 Legal recourse and jurisdiction

4.5.1 In case of legal disputes arising from a contractual relationship entered into based on these GTC, the court with competence to rule on the subject matter in the capital or the Federal State (in Vienna: 1030 Vienna) in which the mail item was taken to be posted is the place of jurisdiction.

4.5.2 In the case of lawsuits against consumers whose permanent or usual place of residence is Austria or who are employed in Austria, the place of jurisdiction shall be the court competent to rule on the subject matter for the permanent or usual place of residence or the place of employment.

4.5.3 Any disputes arising from and in connection with these GTC shall be subject to Austrian law to the exclusion of the UN Convention on Contracts for the International Sale of Goods and without regard to the rules of conflict of law.

Österreichische Post AG

Austrian Post customer service

Business-Hotline: 0800 212 212

post.at/kundenservice

Company headquarters

Letter Division, advertising mail & branches

Rochusplatz 1, 1030 Vienna

post.at/info.mail

Legal form: public company

Based on the political municipality of Vienna

FN 180219d of the commercial court Vienna

Misprint and typographical errors excepted.