

GENERAL TERMS AND CONDITIONS OF CONTRACT

of Österreichische Post AG

for

IT Services

Software as a Service

(Version: 01.04.2022)

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1. Scope

1.1. These General Terms and Conditions of Contract (herein "GCC") are applicable to the contractual relations with regard to IT services between Österreichische Post AG (herein "Post" or "Principal") and the contractor (herein "Contractor") and to future offers/contracts between the Contracting Parties.

In particular, the GCC are appended to offers, orders and contracts and are legally effective as an integral part of the contract between the Contracting Parties, whereas any contractual provisions deviating from these GCC take precedence.

1.2. "IT services" primarily means programming services, maintenance services, ASP, consulting services, and training services.

1.3. Third-party general terms and conditions of business/contract and/or industry-standard terms and conditions are expressly excluded. This also applies if the Contractor refers to them in their offer, correspondence or other documents.

2. Secrecy / Confidentiality / Data protection

2.1. The Contractor undertakes to keep secret all data, information, business secrets and knowhow of which they become aware, unless Post releases them from this obligation in writing in a specific case.

2.2. The Contractor undertakes to take all appropriate measures to ensure secrecy and prevent the disclosure and unauthorised use of information; i.e. in particular, they must

- use this information exclusively for the purpose of fulfilling the orders placed with the Contractor by Post to the required extent;
- limit access to this information to employees who are indispensable in fulfilling the performance object and contractually impose on them the non-disclosure obligations set out herein;
- keep secret and confidential all information provided to the Contractor by Post in connection with the performance object and/or information obtained in connection with the fulfilment of the Contractor's contractual obligations;
- if the Contractor engages third parties to fulfil the performance object of the contract, impose on them in a legally binding and demonstrable way the obligations of secrecy before disclosing this information – in the case of other liability for damages – and to support Post in every way in asserting its claims against them;
- refrain from passing on, processing or exploiting that information in any other way without the written permission of Post.

2.3. The non-disclosure obligation does not apply if and to the extent that

- disclosure is necessary within the scope of the fulfilment and performance of the contract, or due to rulings passed by courts or administrative authorities, a valid legal stipulation, or a legally binding order rendered by an official body;
- the information is publicly known, and its disclosure is not attributable to a violation of this obligation of secrecy by the Contractor or by third parties attributable to the Contractor;
- the information was already known to the Contractor prior to conclusion of the contract;
- the information was passed on to the Contractor by a third party without violating contractual or legal obligations;
- the information in question was developed autonomously and independently by the Contractor themselves.

2.4. The Contractor undertakes to comply with the statutory provisions on data protection, such as the Austrian Federal Act concerning the Protection of Personal Data (*Datenschutzgesetz – DSG*, BGBl. I Nr 120/2017 as amended), in particular the provision of Sec 6 *DSG*, and the EU 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 – GDPR) and the Austrian Telecommunications Act 2021



(*Telekommunikationsgesetz – TKG*, BGBl. I N° 190/2021 as amended) or any statutory regulations replacing it. In the event that personal data are processed on behalf of the Principal, the Contracting Parties must conclude a data processing contract within the meaning of Article 28 GDPR as per Annex./1 as an integral part of the contract.

- 2.5. The obligation of secrecy and data protection continues to apply even after full performance by the Contractor or after end of contract.
- 2.6. In each case of a breach of these obligations and of the obligation to impose the non-disclosure obligation on all relevant parties, the Contractor must pay a contractual penalty in the amount of EUR 10,000.00 (ten thousand euros) to Post for each individual violation, irrespective of fault... The penalty is not subject to judicial mitigation. Post retains the right to claim damages in excess of this amount. Payment of the contractual penalty does not release the Contractor from their obligation to fulfil the contractual obligations.

3. Offer / Cost estimate / Completeness

- 3.1 The Contractor bears the costs relating to all offers, including any contract establishment costs and cost estimates; the accuracy of any cost estimate submitted by the Contractor is deemed guaranteed (Sec 1170a Austrian Civil Code [*Allgemeines bürgerliches Gesetzbuch – ABGB*]).
- 3.2 The Contractor guarantees that they will prepare for Post the cost estimate and the offer from the point of view of full operability, the state of the art, appropriate dimensioning and suitability based on the requirements of Post (concept, requirements, functional specifications, etc.); in particular, the Contractor may not omit any elements, components or ancillary services that are necessary for the proper and defect-free functionality as usually assumed or contractually agreed upon, even if they were not expressly mentioned in the tender or contract. If elements, components or ancillary services are omitted, these must be provided by the Contractor free of charge. Warranty and compensation claims remain unaffected thereby.
- 3.3 If the work is to be provided in parts, the Contractor must perform the work in such a way that the individual partial services can be connected/integrated with the specified interfaces without interruption and with full functionality.

4. Form of supply

- 4.1 The Contractor, as the licensor, will provide the Principal, as the licensee, with "Software as a Service (SaaS)".
- 4.2 Unless expressly agreed, the Contractor is obliged to document the technical specifications made together with Post, on the basis of the requirements of Post.
- 4.3 The application is located on the server of the Contractor, as the licensor. This constitutes the place of performance.

5 Acceptance

- 5.1 Before the acceptance test, the Contractor must inform Post in writing of the completion of the service or parts thereof without delay and request Post to carry out the acceptance test; the acceptance test must be carried out after completion has been confirmed in writing.
- 5.2 If a significant defect is identified, Post may refuse acceptance. A penalty in accordance with the SLA (Service Level Agreement) is deemed to have been agreed.

Defects that are not significant will not prevent acceptance, but they must be rectified in accordance with the deadlines set out in the SLA (Service Level Agreement). Sec 377 of the Austrian Companies Act (*Unternehmensgesetzbuch – UGB*) is excluded by mutual agreement.



- 5.3 If Post does not accept the defect-free performance object within 4 weeks of receipt of written confirmation, the performance object will be deemed accepted as defect-free four weeks from confirmation.

6 Takeover / Partial handovers

6.1 The day of takeover is:

- the business day following the day on which the successful acceptance test is concluded upon signing of an acceptance report; or
- in the event that Post dispenses with an acceptance test, the business day after which the software was installed in an operational condition in accordance with the acceptance report signed by Post and is in full compliance with the contract, free of defects and ready for use by Post; or
- if an acceptance test is ruled out due to the nature of the subject matter, the business day on which the work was delivered in compliance with the contract and free of defects.

- 6.2 Should more than one acceptance test be necessary for parts of the service, these will subsequently only be accepted as a whole. Point 5 applies analogously. Takeovers of parts of the service will only be carried out with the express prior approval of Post. If partial takeovers are carried out, then Post only takes over the part in question.

- 6.3 If, due to a longer time interval between the completion of all (partial) acceptance tests and the takeover owing to defects in the performance, special measures are required to maintain the faultless condition until takeover and thus until the beginning of the warranty period, these must be carried out by the Contractor or their representative according to the Contractor's specifications; if necessary, the Contractor will provide the technical personnel for the maintenance of the functions.

- 6.4 The Contractor will rectify the defects in accordance with the requirements of Post – based on operational time requirements.

7 Exploitation rights / Utilisation of intellectual property

- 7.1 Unless otherwise agreed, the Contractor grants the Principal the simple right to use the software for the intended purposes of the Principal for an indefinite period.

- 7.2 If expressly agreed, this right of use also includes the right of reproduction (for backup and archiving purposes) and free distribution to group companies pursuant to Section 15 of the Austrian Stock Corporation Act (Aktiengesetz – AktG). If services are developed for Post, these services may not be sold to other postal service providers, nor may they be transferred or made accessible to other postal service providers in whatever manner.

- 7.3 Post will have the exclusive usage rights to any invention by employees of Post. In this case the Contractor must notify Post immediately of any new invention by the Contractor which is patentable or licensable as a patent or utility model. Post may, at its own discretion, while naming the inventor in accordance with the applicable legal provisions, apply for industrial property rights on its own behalf in any country, and pursue these rights further or drop them at any time. The Contractor will not be entitled to any additional remuneration for giving such invention to Post or for granting Post the rights of utilisation thereof, as the agreed remuneration sufficiently covers adequate remuneration for the invention.

8 Freedom from third-party rights

- 8.1 The Contractor, as the licensor, will ensure that the software has been developed by the Contractor himself and/or that they are the owner and are exclusively entitled to all marketing, sales and licensing opportunities.

- 8.2 If a claim is made or may be made against Post on the grounds of the infringement of the intellectual property rights of a third party as a result of utilisation, Post will inform the Contractor immediately and give the Contractor the opportunity of defending themselves against



the claim or of obtaining the full rights.

- 8.3 The Contractor will compensate the Principal for any damage resulting from or in connection with the infringement of industrial property rights of third parties associated with the Contractor's delivery or performance. The damage to be compensated includes any payments made for the settlement of disputes out of court, which Post may make subject to the Contractor's consent; the Contractor will not unreasonably withhold consent.

9 Information / Presentation / Workshops

- 9.1 Should the Principal so desire, the Contractor must carry out visual presentations in order to optimise the parameters for the employees of the Principal; these must be included in the remuneration agreed.

- 9.2 Services that go beyond tips for use (such as training programmes) are not included in the licence or maintenance price; however, the Contractor is obliged to inform Post on request about other training programmes in a timely manner. This duty to supply information encompasses further training measures, participation costs, training dates and training venue. Post must be given the opportunity to participate in these training programmes at usual market terms.

10 Project management

- 10.1 If expressly agreed, before commencing work, the Contractor must notify Post of one person in charge designated as the project manager.

- 10.2 Project management and reporting:
In accordance with the specifications of the contract, the Contractor must draw up a project plan in sufficient detail and update it weekly in critical phases, otherwise every 14 days, in the agreed format, and send it to the Principal; a target/actual comparison must be included.

The Contractor must maintain documentation in which the most important project management mechanisms (setup and workflow organisation, persons involved, rules for working together, quality assurance, etc.) are defined.

The Contractor must draw up a report of the results of each meeting in the agreed format of the MS Office system used by Post and send it to all parties involved no later one week after the respective meeting.

- 10.3 Changes to the requirements
Changes that become necessary due to defects in the result of an already completed phase of the project must be carried out at the full expense of the Contractor, providing the Contractor also carried out this phase of the project; the changes must be compensated for by additional work or similar measures in such a way that the deadlines in the schedule are met.
- 10.4 Changes requested by Post within the first third of the project's term that make up no more than 1/10 of the total contract volume have no impact on the schedule.

11 Additional obligations of the Contractor

- 11.1 The Contractor undertakes to state the order number and the reference number of Post on all papers relating to an order, in particular on delivery orders and invoices.
- 11.2 Furthermore, the Contractor undertakes to provide Post with any agreed services in accordance with the applicable national and European laws and standards and the employee protection regulations within the meaning of the Austrian Federal Occupational Health And Safety Act (*ArbeitnehmerInnenschutzgesetz – ASchG*) and any guidelines and recommendations issued by the trade associations in a technically sound, comprehensive manner and to the best



of their ability, while making the utmost effort to protect the interests of Post. This includes keeping Post apprised of opportunities and possibilities as well as risks and how to minimise them. Unless expressly agreed otherwise, the Contractor owes Post a service that can be used by Post for the contracted purpose.

- 11.3 The Contractor undertakes (i) to ensure that the Contractor's legal representatives, employees and engaged and/or commissioned subcontractors comply with all applicable legal provisions relating to anti-corruption regulations and (ii) to take appropriate measures to ensure compliance with the anti-corruption regulations. In the event of a violation of anti-corruption regulations, the Principal is entitled – without prejudice to other rights of withdrawal and termination – to terminate the contract without notice and to assert any claims for damages.
- 11.4 The Contractor undertakes to ensure minimal disruption of operations and to comply with any applicable employment and social legislation as well as the Code of Conduct for Suppliers, Annex ./2, and the relevant operational regulations of Post, in particular the safety regulations, the working time regulations, the house rules, etc. All employees deployed by the Contractor (and thus also those of subcontractors, etc.) must be entitled to reside and take up employment in Austria.
- 11.5 Post and the Contractor work together to implement the health and safety regulations within the meaning of Sec 8 *ASchG* and coordinate their hazard prevention activities (e.g. handling of heavy loads, **conduct on the company premises**). Post and the Contractor must share with each other all information on potential hazards (e.g. operating instructions, inspection of health and safety documents).
The Contractor undertakes to comply with Post's instructions for external companies. Furthermore, the Contractor undertakes to only deploy staff who have been trained appropriately, in particular with regard to the handling of work equipment, etc., and who have been instructed accordingly, in writing and demonstrably, on safety, risk avoidance and health protection (within the meaning of Sections 12 and 14 *ASchG*). Furthermore, the Contractor is obliged to always request the currently valid version of the documents such as operating instructions, operating manuals, guidelines, etc., from Post, to ensure that the Contractor's training on hazard prevention and avoidance is always based on the current documents.
- If the Contractor does not personally carry out the contractual Services but uses subcontractors, the Contractor undertakes, in their capacity as principal, to demonstrably impose this provision upon the subcontractors or to demonstrably pass on to the subcontractors all hazard-specific information relevant to the performance of the activity and to demonstrably instruct them on the hazards.
The Contractor is obliged to check compliance with the instructions on a regular basis. Should an employee of the Contractor or a subcontractor or an employee of a subcontractor suffer an occupational accident on premises of Post, the Contractor is obliged to fully indemnify and hold harmless Post with regard thereto. This also applies to any administrative and legal proceedings, any attendant costs including costs of legal representation and penalties of all kinds.
- 11.6 If, during performance of the contract, a service not covered by the contract proves to be necessary, the Contractor must reach an agreement with Post in this regard prior to performance. If the necessity or expediency of this service is determined by mutual agreement, the corresponding remuneration is to be agreed at the same time. If the Contractor carries out a service not covered by the contract without prior written consent and agreement of the remuneration, Post is not obliged to remunerate the Contractor for it.
- 11.7 The Contractor undertakes to only deploy staff who have been trained appropriately with regard to the contractual requirements. Should Post so demand, the Contractor will replace, within an appropriate period of time, employees who do not possess the requisite expertise or who impair the fulfilment of the contract. If the Contractor assures Post in the offer or otherwise that specific persons will be responsible for provision of the service, these persons must



be available to Post and take primary responsibility for service provision over the entire contract term. They may only be replaced if absolutely necessary. Any necessary replacement requires the prior consent of Post. Post will not withhold its consent unreasonably, providing the Contractor demonstrates that the person taking over service provision is as qualified and experienced as the person being replaced.

- 11.8 In accordance with the obligation to protect the interests of the Principal, the Contractor is prohibited from enticing away employees of Post, either for themselves or for third parties. The Contractor is obliged to refrain from taking any enticement actions of any kind. Furthermore, the Contractor undertakes to refrain from employing employees of Post during the term of the contract and for a period of 12 months after termination of the contract. In the event of a violation thereof, the Contractor is obliged to pay a contractual penalty to Post amounting to the gross annual salary of the employee enticed away. The right to assert further claims for damages remains unaffected thereby.
- 11.9 Similarly, in the event of violation of the obligation specified in Section 17(1)(e), the Contractor must pay the Principal a lump-sum compensation of 50% of the gross total order value. In the case of recurring violations, the Contractor is obliged to pay a lump-sum compensation equivalent to the gross annual fee per contract year.
- 11.10 The Contractor must inform Post of any technical improvements as well as possible further developments of the software and the service, and/or possible adaptations. Scheduled maintenance work or version updates are agreed in advance.
- 11.11 For information about the obligation of maintenance, availability, response times, maintenance support and help desk / support, please refer to the SLA (**Service Level Agreement**).
- 11.12 In the event that Post gives the Contractor or their subcontractors access to a permanent or temporary confidential area (Sec 2.11 of Policy No 11 "Capital Market Compliance Policy" of Österreichische Post AG), the Contractor undertakes to give Post the name of a designated contact person for capital market compliance matters. The Contractor also undertakes to keep a list of all persons involved in handling the order and to keep this list up to date. In addition, the Contractor undertakes to demonstrably (e.g. in the form of email with read receipts) notify the persons on said list of all written communications (e.g. regarding the aforementioned policy or blocking periods) that the Contractor receives from Post's Compliance Department. In addition, the Contractor undertakes to forward to Post AG both the list of persons and proof that the communications were forwarded at the request of Österreichische Post AG.
- 11.13 If the Contractor intends to engage subcontractors, the Contractor must demonstrably notify Post thereof by the time the offer is obtained or the contract awarded and may only proceed to engage such subcontractors with the prior written consent of Post.

If, at some point after conclusion of the agreement, the Contractor intends to change subcontractors or engage a subcontractor that was not disclosed in the offer or during the awarding procedure, the Contractor is obliged to provide Post with the reasons for this change and the name of the intended subcontractor. If the Contractor was required to fulfil suitability criteria, the Contractor must provide, when notifying Post, all paperwork necessary to substantiate the suitability of the subcontractor in question. A change in subcontractor or appointment of a new subcontractor requires the prior written consent of Post, whereby the consent is deemed given if Post does not reject the proposed subcontractor within three weeks of receiving notification; the three-week period only commences upon provision of all paperwork. Post will not withhold its consent unreasonably. No such consent is, however, required for the conclusion of contracts with subcontractors with which the Contractor is affiliated within the meaning of Sec 189a *UGB*.



The Contractor is liable for the fault of all persons whose services the Contractor engages to fulfil their contractual obligations to the same extent as for the Contractor's own fault and the Contractor indemnifies and holds harmless Post in this respect.

12 Remuneration

- 12.1 The remuneration is understood as a fixed package price with all statutory levies included; import sales tax / VAT excluded. General price reductions, including reductions on the part of the Contractor, that are introduced after the date of contract signing are to be passed on to Post. All contractual services are deemed compensated with the agreed remuneration.
- 12.2 If payment at an hourly or daily rate is agreed, the Contractor must submit with each invoice a detailed schedule of the services performed and their scope. Rights of utilisation and exploitation accruing to Post are covered by the agreed remuneration.
- 12.3 Additional ancillary costs – especially travel or accommodation and other expenses – must be included in the contract and/or offer and will be assumed by Post only if they were expressly agreed in advance in writing.
- 12.4 If, in the course of project execution, it becomes apparent, through no fault of the Contractor, that additional services are necessary or expedient, the Contractor must notify Post of this and come to an agreement. Failing this, the Contractor is not entitled to remuneration for their work, not even if it is useful or expedient. Liability for unjust enrichment (e.g. Sec 1041f ABGB) or liability from the title of negotiorum gestio (i.e. conducting another's affairs without authority to do so) (Sec 1035f ABGB), whether in direct or analogous application of the law of unjust enrichment or negotiorum gestio, is excluded in this case with the exception of imminent danger.

13 Invoicing / Terms of payment

- 13.1 Invoices will only be accepted for processing if they contain the order (commission) number or reference number, the ordering/contracting department of Post, the name of the orderer, and the invoice elements specified in Sec11 of the Austrian VAT Act (Umsatzsteuergesetz – UStG). Invoices must be sent as a single copy to the central invoice receipts department

**Österreichische Post AG
Rechnungseingangsstelle
Business Center 590
1000 Wien**

- 13.2 If the Services are performed on the basis of an individual confirmation of services rendered, the latter must be appended to the invoice.
- 13.3 Following completed performance without defects and issue of an invoice without objection, payment of the net amount with a 3% discount will be made within 30 days. The payment term begins on the date of receipt at our central invoice receipts department.
- 13.4 Invoices with substantive or calculation errors will not form the basis of any payment obligation until they have been rectified, and may be returned by Post at any time. In the latter case, a payment obligation will only be constituted upon receipt of the corrected invoice.

14 Performance dates/contract penalty

- 14.1 For information about performance dates, availability, response times, defect classifications and the relevant contract penalties and their due dates, please refer to the **SLA (Service Level Agreement)**.
- 14.2 The Contractor must pay a contractual penalty irrespective of fault of 0.5% of the agreed gross order value for each calendar day or part thereof exceeding the deadline, or EUR



120.00, however no more than 10% of the total gross order value, provided that Post is not solely responsible for causing the delay. In the event of default, the Principal can demand the larger of the two amounts. In the case of recurring services, the contractual penalty is 10% of the gross annual fee per contract year. Section 11.9 remains unaffected thereby.

- 14.3 The contractual penalty will be charged from the day the Contractor falls into default until the day of full performance of the service; proof of damage is not required.
- 14.4 This does not affect the right of Post to withdraw from the contract; in the event that Post withdraws from the contract due to circumstances for which the Contractor is responsible, the contractual penalty will – without prejudice to any other consequences of the withdrawal – only be charged until the date on which the Contractor receives the notice of withdrawal. If, by mutual agreement, the agreed contractual penalty is not specified per day but per week or month, then a calendar day will be 1/7 of a week or 1/30 of a month in the calculation.
- 14.5 The right to assert claims for damages in excess of the contractual penalty remains unaffected thereby.
- 14.6 The payment of a contractual penalty does not release the Contractor from their obligation to fulfil the agreed Services.

15 Warranty (Sec 922 et seqq. ABGB)

- 15.1 The Contractor warrants that all of the Contractor's services are professionally sound, have the qualities usually assumed and contractually agreed upon and, in particular, meet the needs of Post that have been demonstrably communicated to the Contractor. The Contractor warrants that the resources required for the fulfilment of the Contract are available.
- 15.2 At the request of Post, defective services must be remediated or, if necessary, performed again without defect within a reasonable period and at no additional cost. If the Contractor fails, within a reasonable period, to meet their obligation to remedy defects, or fails to meet it in a timely manner or completely, or if the remedy is also defective, Post will be entitled to reduce the remuneration commensurately, including to the point where the Contractor loses their entitlement to remuneration; the Contractor must repay any amounts already received, plus interest in the amount of 9.2% over the base rate (as defined in Sec 456 UGB, Sec 1333(2) ABGB as amended from time to time), calculated from the date of receipt of the amounts.
- 15.3 In each case of a delay caused by the Contractor, Post is entitled to initiate performance by a substitute at the expense of the Contractor after a warning has been communicated and a reasonable grace period set; the setting of a grace period is not applicable for fixed-term contracts as defined in Sec 919 ABGB. Sec 377 UGB does not apply.
- 15.4 The Contractor has the burden to prove the absence of a defect or the insignificance thereof, and will bear all costs and expenses incurred in connection therewith.

16 Damages

- 16.1 The statutory provisions apply. The Contractor is liable for the culpability of all persons whose services the Contractor engages to fulfil contractual obligations, in accordance with Sec 1313a Austrian Civil Code (ABGB). In the event that Post commissions more than one contractor, these are jointly and severally liable to Post for the fulfilment of all obligations arising from this contract. Liability for damage caused by slight negligence is limited to the gross total contract value per contract year; in the case of recurring services, liability is limited to the gross annual fee per contract year.
- 16.2 The agreement of a contractual penalty as defined by Sec 1336 ABGB does not affect the assertion of the right to claim damages exceeding the contractual penalty. In the case of a default in performance caused by the Contractor, Post is entitled to initiate execution by substitution at the expense of the Contractor after a warning has been communicated and a



reasonable grace period set. The setting of a grace period is not applicable for fixed-term contracts (Sec 919 ABGB).

17 Extraordinary termination

17.1 Post is entitled to terminate the contract for good cause at any time by unilateral declaration and with immediate effect. Should there be no grounds for extraordinary termination, Post must compensate the Contractor for the proven cash expenditure and pay an appropriate part of the remuneration for the work already performed by the Contractor. Good cause exists, in particular:

- a) if insolvency proceedings against the Contractor have been rejected on the grounds of insufficient assets;
- b) if the Contractor's work has significant quality defects or the Contractor is in default with the agreed work; if, according to the agreement, the work is to be provided in parts, and the Contractor is in default with one part of the work only, a partial termination may also only be made in respect of the individual part or, alternatively, of all parts that are still outstanding. Post is not required to grant a grace period;
- c) if there are circumstances that make it obviously impossible to fulfil the contract in time and delay completion by more than half of the originally agreed delivery time, provided that these were not caused by Post itself;
- d) if the Contractor enters into an agreement with a subcontractor without Post's consent;
- e) if the Contractor offers, promises or guarantees, directly or indirectly, a pecuniary advantage to an institution and/or employee of Post or a third party that is involved with the conclusion and implementation of the contract at Post, and/or violates anti-corruption regulations or Section 11.3;
- f) if the Contractor themselves, or a person engaged by the Contractor for fulfilment of the contract, breaches the non-disclosure obligation;
- g) if it becomes known after the fact that the Contractor made incorrect statements in the course of the tender or when submitting their offer, and this could have had an impact on the award decision or acceptance of the bid;
- h) if the Contractor restricted or unfairly influenced free competition in the award or tender process in contravention of the law or of good morals;
- i) if a non-appealable judgment has been passed by the (regional) criminal court against the Contractor or the persons working under the Contractor's management for serious acts or omissions in connection with their professional activity;
- j) if the Contractor loses their official (commercial) licence.
- k) the Contractor is no longer able to perform the Services owing to a substantiated case of *force majeure* through no fault of the Contractor, or if the Contractor is not able to perform the Services within 10 business days.

17.2 Both in the event of withdrawal from the contract on the part of the Principal and in the event of extraordinary termination in accordance with this section, the Contractor loses all entitlement to remuneration and compensation of expenses if they have not yet executed an agreed partial performance that is free of defects and can be used by Post; payments already made are to be paid back without delay. The Contractor must compensate Post for any additional costs incurred by subcontracting the commission to a third party, unless such costs are already covered by liquidated damages.

18 Exclusion of the right of transfer

The transfer of rights and obligations arising from the agreement and the transfer of the agreement by the Contractor requires the prior approval of Post. The prohibition of assignment of payment claims was negotiated individually within the meaning of Sec 1396a ABGB. In the event of violation of this provision, the Principal has the right to demand a penalty regardless of fault amounting to 80% of the transferred claim, however, up to no more than EUR 2,000.00 in each case.



19 Costs and charges

- 19.1 The costs, taxes and charges associated with the execution of the agreement will be borne by the Contractor.
- 19.2 In the event that liability for charges arises from the agreement in accordance with the Austrian Fees and Duties Act 1957 (*Gebührengesetz – GebG*, BGBl. I No. 194/1999 as amended) and duties are levied, these are borne solely by the Contractor.
- 19.3 Each of the contracting parties will bear its own costs for the drafting of the agreement and for legal representation.

20 Miscellaneous

- 20.1 It is emphasised that the headings and subheadings in these GCC merely serve the purpose of providing structure and therefore have no legal effect.
- 20.2 Only written agreements are of binding effect; no verbal ancillary agreements exist. Amendments and additions to this Agreement must be made in writing to take legal effect; the same applies to any deviation from the formal requirement of the written form.
- 20.3 Should one or more provisions of this Agreement be found to be or become invalid or unenforceable, the Parties will jointly define a new valid and enforceable provision that comes closest to the economic goal and purpose of the invalid and unenforceable provision. The invalidity or unenforceability of individual provisions does not impair the validity or enforceability of the entire Agreement.
- 20.4 The Contractor is not permitted to make any reference, whether directly or indirectly, to their work for Post without Post's prior written consent, i.e. in particular, to name Post as a reference customer.
- 20.5 Any and all disputes arising out of and in connection with this Agreement / Framework Agreement are subject to Austrian law, with the exclusion of the UN Convention on the International Sale of Goods and conflict of law rules.
- It is agreed that disputes will be referred to the local court responsible for commercial matters in 1030 Vienna.
- 20.6 The Contractor waives their right to avoidance of the contract on grounds of unfair and unreasonable consideration (*laesio enormis*).
- 20.7 In the event of a dispute, the Contractor is not entitled to withhold deliveries and/or to cease performance of work.
- 20.8 The set-off of amounts payable to the Contractor by amounts payable to the Principal is not permitted.
- 20.9 All rights and obligations arising from the agreement will be transferred to any legal successors of either Contracting Party.



Annexes:

Annex ./1

Data Processing Contract within the meaning of Art 28 GDPR

Annex ./2

Code of Conduct for Suppliers



Data Processing Contract within the meaning of Art 28 GDPR Code of Conduct for Suppliers