



## 1. Subject matter of the terms and conditions

- 1.1 Deutsche Post Direkt GmbH (hereinafter referred to as “Post Direkt”), sells the products DATAFACTORY and POSTLEITZAHLENKARTE (hereinafter referred to as “products”) under the following General Terms and Conditions. Any provisions differing from these General Terms and Conditions (GT&Cs) are not applicable.
- 1.2 With the exception of the postal code map, Post Direkt provides the services listed under 1.1 exclusively for entrepreneurs, public law entities and public special funds.
- 1.3 In the event of the further distribution or further processing of the products, the Customer is obliged to ensure the application of these provisions, including with reference to its end customers.

## 2. Cancellation policy

If the Customer is also the consumer, he has the right to cancel the order within two weeks without giving a reason, providing he does so in written form (e.g. letter, fax, e-mail) or – if the product is provided before the expiry of this period – by returning the product. The period begins after he has been informed of this right in written form, but not before the product reaches the Customer. To meet the deadline for cancellation, it is sufficient to send the notice of cancellation in time. Notice of cancellation should be addressed to: Deutsche Post Direkt GmbH, Junkersring 57, 53844 Troisdorf, Germany. Deutsche Post Direkt GmbH is represented by Chief Executives Petra Weber, Christian Ilg and Dr. Martina Büter. In the case of effective cancellation, any services given and received must be returned and any benefits (e.g. interest) refunded. If the Customer is unable to return the products received in full or in part, or only in an inferior condition, the Customer must pay compensation for the value lost. This will not apply to the provision of goods if the damage to the good can be traced back solely to its testing – as would have been possible for the Customer in the shop, for example. However the Customer can avoid the duty to pay compensation for damage caused by making use of the product in an appropriate manner, by not taking ownership of the product and by not indulging in any activity calculated to reduce the value of the product. The products should be returned by Post Direkt at its own risk and expense. Obligations to refund payments must be met within 30 days. This period begins for the Customer with the date of sending the note of cancellation or returning the product, and for Post Direkt with the date it receives the product.

## 3. Prices and payment

- 3.1 All prices are net and the statutory VAT and shipment costs must be added (postage and packing).
- 3.2 Invoices and partial invoices from Post Direkt are payable in full immediately after receipt of the invoice.
- 3.3 In case of default on payment or deferral, interest is payable at nine percentage points above the applicable base interest rate under Section 247 (1) of the *Bürgerliches Gesetzbuch* (German Civil Code, BGB). If the Customer is an entrepreneur, a legal entity under public law or public special funds, then contrary to the previous passage, interest amounting to nine percentage points above the relevant basic interest rate will be payable under Section 247 (1) of the *Bürgerliches Gesetzbuch* (German Civil Code, BGB). Post Direkt may demand higher rates of interest on other legal grounds. The right to claim further damages is not excluded.
- 3.4 In the case of a delay in payment, Post Direkt is entitled to suspend further deliveries to subscribers until outstanding bills have been paid.
- 3.5 Post Direkt is entitled to provide any commissioned services only against advance payment or security if, after concluding the Agreement and/or after commissioning of individual services, circumstances come to Post Direkt’s attention which are able to substantially reduce the creditworthiness of the Customer and which jeopardise the payment of Post Direkt’s outstanding receivables by the Customer from individual orders under this or other agreements with Post Direkt. Until full payment is made by the Customer, Post Direkt is entitled to exercise its right to withhold

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performance (*Leistungsverweigerungsrecht*) pursuant to Section 320 of the *Bürgerliches Gesetzbuch* (BGB - German civil code).

#### 4. Warranty, liability

- 4.1 A warranty for minor software errors is excluded. Post Direkt accepts no responsibility for the compatibility of the products with other programs selected by the Customer.
- 4.2 Complaints due to obvious defects must be made in writing vis-à-vis Post Direkt within ten working days of receipt of the product. Section 377 of the *Handelsgesetzbuch* (German Commercial Code, HGB) will be unaffected. Violation of the obligation to report defects will lead to exclusion of the warranty.
- 4.3 In the case of slight negligence by Post Direkt, or a legal representative or vicarious agent of Post Direkt, the liability of Post Direkt where essential contractual duties are not performed is limited to the damage which could be typically foreseen. Liability of Post Direkt in case of minor negligence is otherwise excluded.
- 4.4 Notwithstanding the provisions set out under 4.3, Post Direkt will be liable for damage to life, limb or health arising from a deliberate or negligent dereliction of duty by Post Direkt or a deliberate or negligent dereliction of duty by a vicarious agent of Post Direkt.
- 4.5 In the case of faults, the Customer initially has the right to demand supplementary performance. If the supplementary performance fails, the Customer may choose to either reduce the payment or withdraw from the Agreement. The Customer's right to damages will be unaffected.
- 4.6 Cases of *force majeure*, which are circumstances and events which cannot be prevented by the exercise of due care, will suspend the contractual obligations of the Parties for the duration of the incident and to the extent of its effects. Should the resultant delays exceed a period of eight weeks, both Parties will be entitled to withdraw from the Agreement in relation to the scope of service affected. No further claims will apply. *Force majeure* also includes the consequences of an industrial dispute at Post Direkt or at a third party, for which Post Direkt is not responsible, where this affects the service provided by Post Direkt.

#### 5. Statute of limitation

- 5.1 Contractual claims for damages of the Customer and his claims for reimbursement of expenses incurred in vain will be time-barred after two years.
- 5.2 Notwithstanding Item 5.1, contractual claims for damages by the Customer and his claims for reimbursement of expenses incurred in vain which result from a defect and the right of the Customer to demand supplementary performance pursuant to Item 4.5 will be time-barred after one year.
- 5.3 Items 5.1 and 5.2 do not apply in the case of a violation of essential contractual duties or in the cases described under Item 4.4.

#### 6. Retention of title

Until full payment of the purchase price, the goods delivered will remain the property of Post Direkt.

#### 7. Extent of use

- 7.1 The products are protected under copyright law. The Customer will receive the right, which is not transferrable and not exclusive, to use the product solely for his own purposes, in relation to the number of licences acquired. The product is regarded as having been used if it is loaded into the RAM or on to a storage medium (e.g. hard disk, CD-ROM or another storage medium) and stored there.



- 7.2 The Customer is granted a licence to use the ordered product on a computer or network for processing addresses or as part of geo-information systems, solely for purposes within his company. The type of data access (batch operation – mass data processing – or individual matching) and any possible additional rights of use like the permission to undertake expanded product use within an Internet application will be explicitly regulated in the Agreement. Where this is specified in the licencing agreement for the ordered product, the Customer is obliged to inform Post Direkt of the current address volume of its end customer database or the current number of clients upon request.
- 7.3 Irrespective of the type and number of the licences acquired, the Customer may only make copies of the products on one occasion, for back-up purposes.
- 7.4 The use of the products supplied by Post Direkt for other purposes than those agreed in the Agreement is not permissible. The Customer may not provide services with the products to third parties or supply the product to them on a commercial basis without the prior consent of Post Direkt. The provision of copies of the product to other third parties also requires the prior consent of Post Direkt. A third party in the meaning of this provision is any natural or legal entity, in particular companies with which the Customer is affiliated in the meaning of Section 15 of the *Aktiengesetz* (German stock corporation act). The commercial performance of address matching, address leasing and data enhancement and other services based on data inventories which are performed using the products supplied by Post Direkt, also requires the prior agreement of Post Direkt.
- 7.5 If the Customer is an entrepreneur, legal entity under public law or public special funds, and culpably violates the obligations arising from this Section 7, Post Direkt will be entitled, without prejudice to the assertion of other rights, to demand for each case of violation a contractual penalty amounting to ten times the invoiced total of the order. In the case of ongoing licence fees, the contractual penalty will be ten times the annual total licence fee.

## 8. Term and termination of Agreement

- 8.1 If the Customer purchases products as part of a subscription, the term of the Agreement will be 24 months and begin when the order is accepted by Post Direkt. The agreement will then be extended by a further twelve months if nothing to the contrary is agreed in the said Agreement and if the Agreement is not terminated three months before the end of the Agreement. The right to terminate the Agreement for good cause will remain unaffected.
- 8.2 Upon completion of the Agreement, the Customer may not use the product any longer, for whatever reason. The products supplied must be deleted by the Customer and physical data media must be destroyed.
- 8.3 The use of products supplied after the Agreement has expired, requires the prior agreement of Post Direkt and will only be granted if additional user fees are paid.

## 9. Miscellaneous provisions

- 9.1 The right of offsetting against claims of Post Direkt can only be permitted if the counterclaim falling due is established on a legally binding basis or is undisputed. If the Customer is an entrepreneur, legal entity under public law or public special funds, he too can make good a right to withhold only if his counterclaim is undisputed or is established on a legally binding basis.
- 9.2 Post Direkt may transfer all its rights and obligations resulting from or in connection with this Agreement or this Agreement as a whole to companies with which Post Direkt is affiliated in the meaning of Section 15 et seq. of the *Aktiengesetz* (German stock corporation act).
- 9.3 The Customer may only transfer the rights and obligations from this Agreement to third parties with the prior consent of Post Direkt.



- 9.4 Post Direkt may terminate this Agreement without notice if a competitor of Deutsche Post AG or the companies with which Deutsche Post AG is affiliated in the meaning of Section 15 et seq. of the *Aktiengesetz* (German stock corporation act) directly or indirectly acquires a controlling interest in the Customer.
- 9.5 For all legal relations between the Parties, German law will apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 9.6 The place of jurisdiction for all disputes arising from this Agreement will be Bonn, provided the Customer is an entrepreneur, a legal entity under public law or a special fund under public law.
- 9.7 Providing the Customer is an entrepreneur, a legal entity under public law or a special fund under public law, and does not claim special confidentiality interests, Post Direkt will have the right, either itself or through members of professions sworn in law to professional secrecy (a lawyer, tax consultant or accountant), to check for compliance with these conditions of use at appropriate intervals; the Customer undertakes to provide access to his business premises for this purpose during normal working hours. Post Direkt will bear the costs of this inspection, unless during the inspection a violation of the conditions for use is discovered; in this case, the Customer will bear the costs.

Translation from German to English

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